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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046185
Party	Plaintiff Amanda Blackhorse, Marcus Briggs, Phillip Gover, Shquanebin Lone-Bentley, Jillian Pappan, and Courtney Tsotigh
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Date	03/15/2012
Attachments	Part 37A of 60 BLA-TTAB-02768 - 03116.pdf ( 175 pages )(4615091 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 1,606,810 (REDSKINETTES)

Registered July 17, 1990,

Registration No. 1,085,092 (REDSKINS)

Registered February 7, 1978,

Registration No. 987,127 (THE REDSKINS & DESIGN)

Registered June 25, 1974,

Registration No. 986,668 (WASHINGTON REDSKINS & DESIGN)

Registered June 18, 1974,

Registration No. 978,824 (WASHINGTON REDSKINS)

Registered February 12, 1974,

and Registration No. 836,122 (THE REDSKINS—STYLIZED LETTERS)

Registered September 26, 1967

	)	
Amanda Blackhorse, Marcus Briggs,	)	
Phillip Gover, Jillian Papan, and	)	
Courtney Tsotigh,	)	
	)	
Petitioners,	)	
	)	Cancellation No. 92/046,185
v.	)	
	)	
Pro-Football, Inc.,	)	
	)	
	)	
Registrant.	)	
_____	)	

**ATTACHMENT TO PETITIONERS' FIRST NOTICE OF RELIANCE**

**PART 37 OF 60**

**BLA-TTAB-02768 – BLA-TTAB-03116**

Respectfully Submitted,

/s/Jesse A. Witten  
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*Counsel for Petitioners*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 1,606,810 (REDSKINETTES)

Registered July 17, 1990,

Registration No. 1,343,442 (SKINS)

Registered June 18, 1985,

Registration No. 1,085,092 (REDSKINS)

Registered February 7, 1978,

Registration No. 987,127 (THE REDSKINS & DESIGN)

Registered June 25, 1974,

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Registered June 18, 1974,

Registration No. 978,824 (WASHINGTON REDSKINS)

Registered February 12, 1974,

and Registration No. 836,122 (THE REDSKINS - STYLIZED LETTERS)

Registered September 26, 1967

Suzan Shown Harjo, )  
Raymond D. Apodaca, )  
Vine Deloria, Jr., )  
Norbert S. Hill, Jr., )  
Mateo Romero, )  
William A. Means, and )  
Manley A. Begay, Jr., )  
 )  
Petitioners, )  
 )  
v. )  
 )  
Pro-Football, Inc., )  
 )  
Respondent. )  
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Cancellation No. 21,069

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**DISCOVERY DEPOSITION TRANSCRIPTS FOR  
PETITIONERS' NOTICE OF RELIANCE (NR3)  
DEPOSITION TRANSCRIPTS RA 1 - JC  
VOLUME 1**

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# TRANSCRIPT OF PROCEEDINGS

IN THE UNITED STATES PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

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	:	
SUZAN SHOWN HARJO, RAYMOND D.	:	
APODACA, VINE DELORIA, JR.,	:	
NORBERT S. HILL, JR., MATEO	:	
ROMERO, WILLIAM A. MEANS, AND	:	
MANLEY A. BEGAY, JR.,	:	
	:	
Petitioners,	:	
	:	
v.	:	Cancellation No.: 21,069
	:	
PRO-FOOTBALL, INC.,	:	
	:	
Respondent.	:	
-----	x	

Deposition of JOANN CHASE

Pages 1 thru 118

Washington, D.C.  
April 26, 1996

MILLER REPORTING COMPANY, INC.

507 C Street, N.E.  
Washington, D.C. 20002  
(202) 546-6666

IN THE UNITED STATES PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

- - - - -	X	:	
		:	
SUZAN SHOWN HARJO, RAYMOND D.		:	
APODACA, VINE DELORIA, JR.,		:	
NORBERT S. HILL, JR., MATEO		:	
ROMERO, WILLIAM A. MEANS, and		:	
MANLEY A. BEGAY, JR.,		:	
		:	
Petitioners,		:	
		:	Cancellation No.:
vs.		:	21,069
		:	
PRO-FOOTBALL, INC.,		:	
		:	
Respondent.		:	
		:	
- - - - -	X		

Washington, D.C.  
Friday, April 26, 1996

The deposition of JOANN CHASE, called for examination by counsel for Respondent in the above-entitled matter, pursuant to Notice, in the offices of Suite 500, 1747 Pennsylvania Avenue, N.W., Washington, D.C., convened at 10:20 a.m., before Cathy Jardim, a notary public in and for the District of Columbia, when were present on behalf of the parties:

MILLER REPORTING CO., INC.  
507 C STREET, N.E.  
WASHINGTON, D.C. 20002  
(202) 546-6666

## APPEARANCES:

On Behalf of the Respondent:

JOHN PAUL REINER, ESQ.  
NADINE P. FLYNN, ESQ.  
White & Case  
1155 Avenue of the Americas  
New York, NY 10036-2787  
(212) 819-8200

On Behalf of the Petitioners:

ALDO NOTO, ESQ.  
Dorsey & Whitney  
220 South Sixth Street  
Minneapolis, MN 55402-1498  
(612) 340-7885



## C O N T E N T S

WITNESS	EXAMINATION BY COUNSEL FOR RESPONDENT	PETITIONERS
JOANN CHASE	4	--

## E X H I B I T S

NUMBER	MARKED FOR IDENTIFICATION
107	4
108	28
109	39

## P R O C E E D I N G S

Whereupon,

JO ANN CHASE

was called for examination by counsel for Respondent  
and, having been first duly sworn by the notary public,  
was examined and testified as follows:

## EXAMINATION BY COUNSEL FOR RESPONDENT

BY MR. REINER:

Q. Would you state your name and address,  
please?

A. My name is JoAnn Chase. I am the Executive  
Director of the National Congress of American Indians.  
The address is 2010 Massachusetts Avenue, north west,  
Washington, D.C..

MR. REINER: I would like to have marked A  
subpoena in a civil case.

(Chase Exhibit No. 107

was marked for identification.)

BY MR. REINER:

Q. I would like to show you a document, Exhibit  
No. 107, and ask you if that is a copy of a subpoena  
that was served upon the National Congress of American

( 1 Indians.

- 2 A. Yes, it is.

3 Q. Did you receive that subpoena personally?

4 A. No, I did not.

5 Q. Was it given to you by someone in your  
6 office?

7 A. It sure was.

8 Q. Who was it given to you by?

9 A. A gentlemen by the name of John Dossett.

10 Q. And who is Mr. Dossett?

11 A. He is a staff member. He actually serves as  
12 a legislative analyst with the National Congress of  
13 American Indians.

14 Q. Is he employed by the National Congress of  
15 American Indians?

16 A. Yes, he is.

17 Q. And are you employed by the National Congress  
18 of American Indians?

19 A. Yes. I am the executive director of the  
20 organization.

21 Q. And how long have you held that position?

-22 A. Since April 1, 1994.

1 Q. And prior thereto, were you employed by the  
- 2 National Congress of American Indians?

3 A. I was for approximately four months as the  
4 director of their legislative affairs shop and then  
5 assumed the position of executive director.

6 Q. And prior thereto, were you employed by the  
7 National Congress of American Indians?

8 A. No, I was not. Immediately prior to there I  
9 was employed by the National Commission for American  
10 Indians, Alaskan, and Native Hawaiian Housing.

11 Q. Is that affiliated in any way with the  
12 National Congress of American Indians?

13 A. No, it is not.

14 Q. Do they have offices adjacent to the National  
15 Congress of American Indians?

16 A. No, they did not.

17 Q. If I use NCAI, you will understand that that  
18 means National Congress of American Indians?

19 A. Absolutely.

20 Q. Did you have any affiliation as a member of  
21 the NCAI prior to your employment?

-22 A. Yes, I did, and in fact, I was employed with

1 the National Congress of American Indians after  
- 2 undergraduate school, from 1986 to 1987, for one year.

3 Q. And did you become a member of the NCAI?

4 A. Yes.

5 Q. When did you become a member?

6 A. I and my family have been members for as long  
7 as I can remember and my own individual membership has  
8 been intact for, to the best of my knowledge, the 33  
9 years that I have been in existence.

10 Q. Are you a member of any tribe?

11 A. Yes, I am. I am a member of the three  
12 affiliated tribes of the Fort Berthold reservation -- B  
13 E R T H O L D -- in the State of North Dakota.

14 Q. And is that affiliated with any tribe such as  
15 the Lakota Nation?

16 A. It is not. There are three separate tribes  
17 who are referred to under one title, the three  
18 affiliated tribes, and the three separate tribes  
19 collectively on the reservation are the Mandans,  
20 Hidatsa -- H I D A T S A -- and the Arikara --  
21 A R I K A R A .

-22 Q. And are those three tribes recognized by the

1 Department of the Interior?

— 2 A. Yes, they are. They are recognized as one  
3 tribe, which is actually the three affiliated tribes.  
4 They are recognized as a single governmental entity.

5 Q. Are there requirements to be enrolled as  
6 members in the tribe?

7 A. Yes, there are requirements. There is a  
8 blood quantum requirement.

9 Q. What is that?

10 A. I believe it is one-fourth.

11 Q. Would you tell me what your duties are as the  
12 director -- is that the correct title?

13 A. Executive Director.

14 Q. What are your duties?

15 A. How much time do we have today?

16 Q. If you could give me a summary.

17 A. My duties are primarily to oversee the  
18 day-to-day activities of the organization. Not only am  
19 I in charge of such issues as personnel, financial  
20 matters, on a day-to-day basis, I head up the primary  
21 purpose of the organization, which is to advocate for  
—22 tribal governments on a myriad of issues, including

1 major policy issues.

2 Q. And how many persons are -- strike that.

3 How many offices does the NCAI have?

4 A. We have one office.

5 Q. And where is that located?

6 A. The office is located at 2010 Massachusetts  
7 Avenue.

8 Q. And how many square feet, approximately, are  
9 the offices?

10 A. You know, I do not know the answer to that  
11 question.

12 Q. How many rooms are there?

13 A. There are 12 offices for 12 employees -- 12  
14 individual office spaces and there are 12 employees.

15 Q. Are they full-time employees?

16 A. Yes, they are.

17 Q. And are from any part-time employees?

18 A. Yes, there is. There is one part-time  
19 employee.

20 Q. Is there a file room maintained at your  
21 offices?

22 A. There is. There is a rather small storage

1 space in the office or common space, if you will, and  
- 2 some files are there.

3 Q. Are they in cabinets of some type?

4 A. Yes, they are.

5 Q. And how many cabinets are there?

6 A. There are five functioning file cabinets.

7 Q. And approximately how many drawers are there  
8 in each cabinet?

9 A. Four.

10 Q. There would be 20 file drawers --

11 A. Approximately.

12 Q. Do you have any storage space in the same  
13 building?

14 A. No, we do not.

15 Q. Do you have storage space?

16 A. Yes, we do.

17 Q. Where is it maintained?

18 A. It is in Virginia.

19 Q. And do you have access to that storage space  
20 on notice to the proprietor of the space?

21 A. Yes, we do.

-22 Q. And how much notice do you have to give them



1 to gain access to your space?

2 A. I do not know the answer to that question.  
3 That is handled by my staff. Usually it is a matter of  
4 just a call to inform them that we will be there.

5 Q. Do you have a particular person on your staff  
6 that is in charge of maintaining the files of the  
7 organization?

8 A. Yes, I do. Actually it is a shared  
9 responsibility, two staff members.

10 Q. Would you identify them.

11 A. Georgette Smith and Nkitia Ageyman --  
12 N K I T I A -- A G E Y M A N.

13 Q. And as a part of their duties, they maintain  
14 the files on a full-time basis?

15 A. Yes.

16 Q. Do you supervise their work?

17 A. Yes, I do.

18 Q. Did you request either one of those  
19 individuals to assemble any files in response to the  
20 subpoena that was served?

21 A. No, I did not, actually -- yes, I did, in a  
-22 limited capacity. Since their duties are primarily

1 clerical, they assisted.

— 2 Q. Was there some person that you requested to  
3 assemble the documents?

4 A. Yes.

5 Q. And who is that person?

6 A. Brian Stokes. Brian is a legislative  
7 assistant for the National Congress.

8 Q. Is he a full-time employee?

9 A. Yes, he is.

10 Q. And did you have a conversation with him  
11 after receiving the subpoena?

12 A. Yes, I did.

13 Q. And was it on the same day that you received  
14 the subpoena?

15 A. No, it was not.

16 Q. When was it?

17 A. It was the following day.

18 Q. And would that have been on or about March 23  
19 or 24?

20 A. To the best of my recollection, yes.

21 Q. And what conversation did you have with him?

—22 A. We sat down along with another staff person,

( 1 my director of governmental affairs, Paul Moorehead,  
- 2 and simply reviewed the request for documents. And I  
3 directed Brian, who actually is in charge of handling a  
4 number of issues, including religious and cultural  
5 affairs, to work with Georgette and Nkitia, to go  
6 through all of our files to see if we could produce  
7 those documents that were being requested, that were in  
8 our possession.

9 Q. And did you -- strike that.

10 Have you yourself seen the -- strike that.

11 Have you yourself seen the contents of the  
12 five file cabinets maintained in your offices?

13 A. Yes, I have.

14 Q. And the file cabinets, are they maintained in  
15 a chronological order by year?

16 A. Yes, some are. Our correspondence files are.  
17 Our resolution files are and there are other files that  
18 are subject matter files that are filed alphabetically  
19 and the material contained therein, in theory, should  
20 be in chronological order but it is not, always.

21 Q. And do you maintain -- strike that.

-22 How many years of annual files are maintained

1 in those file cabinets in your office?

— 2 A. Currently -- absolutely, the years that I  
3 have been executive director of the organization. A  
4 portion of '94, all of '95, and a portion of '96, are  
5 those that I can attest to absolutely are contained  
6 therein. Going back from -- I should add, we have  
7 moved. We moved our offices from Pennsylvania Avenue  
8 to Massachusetts Avenue in June of 1995 and a number of  
9 additional boxes, not indexed, of materials relevant to  
10 the organization, at that time were also stored in our  
11 storage facility and I do not have knowledge of exactly  
12 what those contents of those boxes would be. They may  
13 contain records going back beyond 1994.

14 Q. Where are those boxes located now?

15 A. They are in our storage facility. I do not  
16 have the address of that facility. I am sorry.

17 Q. And did you instruct anyone from your office  
18 to look into those file boxes to see the contents  
19 thereof in response to the subpoena?

20 A. No.

21 Q. Did anyone in fact look into those five  
—22 boxes?

1 A. When we moved, yes. A woman who is since  
- 2 deceased. Her name is Rose Robinson.

3 Q. And was any index taken of the documents that  
4 were in those five boxes?

5 A. No.

6 Q. Do you have an index of the documents that  
7 are on file in the storage facility?

8 A. No. There is a partial -- let me restate  
9 that. There is a -- I have not seen it but it is my  
10 understanding that at one time in the history of the  
11 organization there has been some filing of documents in  
12 conjunction with a project by the National Archives.  
13 Just exactly what years those documents and the project  
14 cover, I am not certain. It is my understanding that  
15 it is actually for a period of years in the early '70s.

16 Q. And who was your predecessor as executive  
17 director?

18 A. An interim executive director named Rachel  
19 Joseph.

20 Q. Did you speak to Rachel Joseph concerning the  
21 files maintained by the NCAI?

-22 A. In what context?

1 Q. Did you have any discussions with her as to  
- 2 the manner in which the files were kept by the NCAI?

3 A. When I was a staff person, yes, I did,  
4 because there were no files. The files were not kept  
5 in an orderly fashion, so when I came on board as  
6 executive director we began an orderly file system.

7 Q. There was a period of four months when you  
8 were employed but not as the executive director?

9 A. That is correct.

10 Q. Did you at that time review any files of the  
11 organization?

12 A. No, sir, I did not.

13 Q. And did you send -- for the period of time  
14 for which you were executive director, had you sent any  
15 files to the storage facility?

16 A. For the period of time I have been executive  
17 director?

18 Q. Yes.

19 A. No, we have not sent files.

20 Q. For the period of time you have been  
21 executive director, have you delegated to any person  
- 22 the responsibility of examining the files in the

1 storage facility?

2 A. No, I have not.

3 Q. Has anyone gone to the storage facility to  
4 see what files are there?

5 A. For that purpose, no.

6 Q. For any purpose?

7 A. To take items out to the storage facility,  
8 such as Christmas decorations at one point, and the  
9 five boxes or six boxes, I do not know the exact  
10 number, of materials that were in no particular order  
11 but were random papers of the organization when we  
12 moved.

13 Q. Were any files kept on an annual basis prior  
14 to your becoming executive director, to your knowledge?

15 A. To my knowledge there are some files that  
16 have been kept, although they are clearly, in my  
17 estimation, incomplete files.

18 Q. Were any files maintained as to the minutes  
19 of the -- is it the general council -- is that what it  
20 is?

21 A. The Executive Council of the organization.

22 Q. Are any files maintained as to the minutes of

1 meetings of the Executive Council?

2 A. There are files pursuant to my executive  
3 directorship, yes. There are minutes of every meeting  
4 that the board of directors has ever conducted, as well  
5 as our annual meetings.

6 Q. And prior thereto, were any files maintained  
7 of the minutes of the meetings of the Executive  
8 Council?

9 A. Not in any orderly fashion that I have  
10 identified at this point.

11 Q. Has anyone gone to the storage facility to  
12 ascertain if there are such files?

13 A. No.

14 Q. Were any documents produced pursuant to the  
15 subpoena obtained from your storage facility?

16 A. No.

17 Q. Do you have a copy of the index of the files  
18 in the storage facility that you referred to before?

19 A. The only -- as I say, I do not have a copy,  
20 nor have I seen. The only indexing that is formal that  
21 I am aware of is through hearsay, and that is that at  
22 one point there was a historical project in conjunction



1 with the National Archives that began documenting some  
- 2 of those documents in 1970 -- or the early part of the  
3 '70s, as I understand it. The storage facility I -- I  
4 have not been to the storage facility. Ms. Smith and,  
5 prior to her death, Ms. Robinson had made visits to the  
6 storage facility but it is my understanding that there  
7 are literally hundreds of boxes in the storage facility  
8 of various documents and items that belong to the  
9 organization.

10 Q. And are each one of those boxes identified in  
11 any manner?

12 A. It is my understanding that they are not.

13 Q. Are the boxes numbered in any manner?

14 A. It is my understanding they are not.

15 Q. Who was in charge of sending the files to the  
16 warehouse prior to your becoming the executive  
17 director?

18 A. I would assume that it is within the  
19 jurisdiction of the previous executive directors and/or  
20 members of their staff.

21 Q. Are there any members of the staffs of the  
-22 former executive directors still employed by the NCAI?

1           A.    Yes.  There is one gentleman, although he is  
2 not employed directly by the National Congress of  
3 American Indians he is employed through a cooperative  
4 agreement that we maintain with the Department of  
5 Energy so his duties run exclusively to that program,  
6 and he has been on staff off and on with the  
7 organization since the '80s.  Therein he served with  
8 various previous executive directors.

9           Q.    I know you identified the name of the person  
10 who was the prior executive director.  Can you tell me  
11 where that person resides?

12          A.    I believe at this point she resides in  
13 Arizona and on the Fort McDowell reservation.  She has  
14 married a gentleman from that reservation.

15          Q.    Do you know what her married name is?

16          A.    I do not.  I only know her previous name.  It  
17 is Rachel Joseph and she may have maintained her maiden  
18 name at this point.

19          Q.    And would Rachel Joseph have had someone in  
20 charge of maintaining the files of the organization?

21          A.    I believe that she did.  I believe that  
22 somebody worked in an administrative, if you will,

( 1 capacity with Rachel.

- 2 Q. And who was that person?

3 A. I believe that person would be Veronica  
4 Murdock.

5 Q. And do you know where she resides?

6 A. I do. She resides in Arizona as well.

7 Q. And where?

8 A. The greater Phoenix area.

9 Q. Did you communicate with this lady concerning  
10 responses to the subpoena?

11 A. I communicated with Ms. Joseph.

12 Q. And when did you do that?

13 A. Soon after we received the subpoena, in an  
14 effort to attempt to acquire minutes and anything else  
15 that might exist that might be relevant to the request  
16 of the subpoena.

17 Q. Did you communicate in writing?

18 A. No, I did not.

19 Q. Did she respond in any manner in writing to  
20 you?

21 A. No, she did not.

-22 Q. Did you have a telephone conference?

1 A. Yes.

— 2 Q. Is that the manner in which you communicated?

3 A. Yes.

4 Q. And approximately how long did that  
5 conference take?

6 A. Just a few minutes.

7 Q. And what was the substance of your  
8 conversation?

9 A. It was primarily about another issue with  
10 NCAI, we have a convention coming up in Phoenix in  
11 1997, and also in her capacity as the recording  
12 secretary, I asked if there would be additional  
13 documents because I could not find them in our files,  
14 of minutes that occurred in 1993.

15 And Ms. Joseph indicated that she believed  
16 she had left those documents in the possession of  
17 previous administrations, but she would check and see  
18 if there were actually documents that she had and if  
19 she did have them, she would give me a call back. And  
20 I did not hear back from her. Ms. Joseph was recording  
21 secretary for the organization and a gentleman named  
—22 Mike Anderson was the executive director during her

1 tenure as recording secretary.

— 2 Q. And how long was she recording secretary?

3 A. Sir, I do not know exactly. I know at least  
4 for the period '92 and '93, I believe. Our officers  
5 are elected for two-year terms, so I know that during  
6 that period she was in fact recording secretary and she  
7 may have been recording secretary for previous times.  
8 It is not uncommon for people to serve on the board of  
9 directors at various times throughout their lifetime.

10 Q. Was she recording secretary at the same time  
11 she was executive director?

12 A. No, she was not. I was not present on staff  
13 at the time, but to the best of my knowledge, it is my  
14 understanding she left the position as a member of the  
15 board of directors to fill the position of executive  
16 director in an interim capacity.

17 Q. Do you know the period of time in which she  
18 functioned as executive director?

19 A. I can estimate it. I know when she left.  
20 That was March 31, 1994, because I took over on April  
21 1, 1994. I believe that she served in that capacity  
—22 for just under a year. So May of the previous year,

1 perhaps. I do not know for certain, however.

2 Q. Did she have a predecessor whom you knew?

3 A. As executive director?

4 Q. Yes.

5 A. I do not know the gentleman well. I simply  
6 new his name and know him today. His name is Mike  
7 Anderson.

8 Q. And where does he reside?

9 A. Mike resides, I believe, in the Washington  
10 area and is employed currently at the Bureau of Indian  
11 Affairs.

12 Q. Did you consult with him at all about  
13 locating files in response to the subpoena?

14 A. No, I did not.

15 Q. And how long had he been executive director?

16 A. I do not know. I believe he was with the  
17 organization -- I do not know for certain. I believe  
18 he was with the organization also for just less than a  
19 year.

20 Q. Do you know who was the executive director  
21 prior to that gentleman?

22 A. I believe I do. I believe, to the best of my

1 knowledge, there was another interim executive  
2 director, a gentleman named Terry Martin.

3 Q. And do you know where he resides?

4 A. I do not. He is with the Cushata tribe in  
5 Alabama. Whether he resides there or is employed  
6 elsewhere is beyond my knowledge.

7 Q. Do you have any idea how long he served?

8 A. I do not. I believe it was just a period of  
9 months. It was quite a time of transition in the  
10 history of the organization.

11 Q. At the time you joined -- I can't remember  
12 the title, but it was the four-month period before  
13 becoming executive director?

14 A. Director of legislative affairs.

15 Q. At that period of time, when you first joined  
16 the organization as director of legislative affairs,  
17 how many employees were there?

18 A. When I first joined, officials of the  
19 organization included a receptionist, Ms. Joseph,  
20 myself and an accounting person. Four. And Ms.  
21 Murdock was on staff with Ms. Joseph but it is my  
22 understanding that she was not an official employee of

1 the organization but rather was working on an IPA  
- 2 agreement from the Bureau of Indian Affairs. And then  
3 there were two employees who worked, again, under the  
4 jurisdiction of a cooperative agreement with the  
5 Department of Energy, so 100 percent of their time goes  
6 to that agreement and not necessarily the ongoing  
7 activities of the Congress and that would be Mr.  
8 Holden, Robert Holden, and a woman, Rose Robinson, who  
9 is since deceased.

10 Q. At the time when you first became the  
11 director of legislative affairs, who was in charge of  
12 maintaining the files?

13 A. I would say that it was a joint effort  
14 between Ms. Joseph and Ms. Murdock.

15 Q. And did you say where Ms. Murdock resides  
16 now?

17 A. Yes. I said I believe she resides in  
18 Arizona. Both Ms. Joseph and Ms. Murdock are in  
19 Arizona.

20 Q. In terms of the structure of the NCAI, I  
21 understand there is some type of a general congress --  
-22 is that correct, is that what you call it?



( 1 A. Yes.

— 2 Q. And that meets once a year?

3 A. It meets three times a year. We are  
4 compelled by our constitution to hold two annual  
5 conventions and they are referred to as the Executive  
6 Council Session, and then an annual convention. And  
7 historically, and I am not certain when exactly it  
8 began but in the contemporary history of the  
9 organization, we have held a third conference which is  
10 essentially a planning session and an opportunity to  
11 deal with other emergency issues, if you will, held in  
12 the middle of the year.

13 Q. Now, in terms of the structure of the  
14 organization -- I would like to show you a document  
15 entitled "Constitution and By-laws" and ask you, is  
16 that the current constitution and by-laws of the  
17 organization?

18 MR. NOTO: Are we going to mark this as an  
19 exhibit?

20 MR. REINER: I am. I just want to make sure  
21 it is current.

—22 (Pause.)

1 THE WITNESS: Yes.

— 2 MR. REINER: May we have this marked as  
3 Exhibit 108.

4 (Chase Exhibit No. 108  
5 was marked for identification.)

6 BY MR. REINER:

7 Q. I believe you just testified to annual  
8 conventions that are held each year; is that correct?

9 A. That is correct.

10 Q. There are at least two of them?

11 A. Yes. There is the Executive Council session,  
12 usually held early in the year, timed usually, although  
13 this year is a bit of an aberration, to coincide with  
14 the release of the President's budget, and then there  
15 is an annual convention.

16 Q. Is it correct that there is an Executive  
17 Council and then an Executive Committee and then a  
18 general congress of members. Is that the structure?

19 A. Yes, sir.

20 Q. And when we are talking about -- strike that.

21 When you were testifying about an annual  
—22 meeting, were you talking about the general congress

( 1 meeting twice a year?

— 2 A. Yes.

3 Q. And then in addition there are meetings of  
4 what is called an Executive Council?

5 A. No. There are meetings of what is called the  
6 Executive Committee. The Executive Committee consists  
7 of four officers that are elected by the general  
8 membership of the organization and then an area vice  
9 president. The country is divided into 12 different  
10 areas and there is one representative from each area  
11 elected to serve as representing those areas'  
12 interests. That collective body of 16 members is  
13 referred to as the Executive Committee.

14 Then there is the Executive Council. It took  
15 me a while to get this in order. The Executive Council  
16 consists of the official representative member of the  
17 member tribes, member tribes of the organization.  
18 Actually pursuant to a tribal resolution or an official  
19 action of the tribe, if you will, to designate a  
20 delegate, and if they like, an alternate delegate, for  
21 the purpose of representing them and voting. One  
—22 representative of each of the member tribes is in the

1 Executive Council.

2 Q. How often does the Executive Council meet?

3 A. The Executive Council meets absolutely once a  
4 year, within the context of the Executive Council  
5 meeting, the first meeting usually, annually, and quite  
6 often an Executive Council meeting will be convened  
7 within the context of the annual convention, which is  
8 held usually in the fall.

9 Q. Now, is this Executive Council the  
10 legislative body of the organization?

11 A. I think it would be more accurate to call it  
12 the decision-making organization. The Executive  
13 Council, again, are those persons who are, pursuant to  
14 tribal resolution, named to be the representative of  
15 the tribe for the purpose of conducting business within  
16 the organization. They are the delegate, if you will.

17 Q. Are minutes kept of the meetings of the  
18 Executive Council?

19 A. Currently, yes. Whether minutes have always  
20 been kept and in what form they are kept, I am not  
21 certain, but for now we do keep minutes. Since my  
22 tenure as executive director we do keep minutes of all

1 sessions.

— 2 Q. Have you seen any minutes of meetings of  
3 sessions prior to when you became the executive  
4 director?

5 A. I have seen one set of minutes and that is  
6 the annual convention in Reno, Nevada, in 1993, and  
7 actually, I have seen excerpts from minutes in  
8 historical documents from the very first meeting of the  
9 executive -- actually, it would not have been an  
10 executive body, from the very first meeting of the  
11 organization which was convened in Denver in 1984.

12 Q. And you have not seen anything in between  
13 then?

14 A. No, I have not.

15 Q. And is there anything in those file cabinets  
16 that reflect actions taken between 1944 and 1993?

17 A. It would be an ideal situation to have all of  
18 the records from the history of the organization in  
19 some tangible order but to the extent that various  
20 documents have been found from time to time, we have  
21 attempted to find them, that they are subject to  
—22 chronology or some order.

1           There are resolutions that have been  
- 2   produced, I cannot tell you which years of resolutions  
3   we have cataloged but certainly those would be a  
4   priority for our purposes, since they are the guiding  
5   policies of the organization; and there are some  
6   volumes of resolutions, and albeit not consistent, and  
7   I can't tell you what volumes there are, but there are  
8   some from the '80s.

9           Q.   When you had your discussion with Ms. Joseph,  
10   did she inform you that there were any minutes kept of  
11   meetings of this Executive Council prior to your  
12   joining the organization as executive director?

13          A.   To the best of her recollection, there would  
14   only be a listing -- the minutes would consist of a  
15   listing of the resolutions that were actually passed at  
16   that time.

17          Q.   Were there any records kept of the persons  
18   attending the meetings of the Executive Council?

19          A.   I am not aware that there were.

20          Q.   Were there any records kept on the persons  
21   that were entitled to vote as delegates or alternate  
-22   delegates of the Executive Council prior to the time

1 you became executive director?

— 2 A. I am not aware.

3 Q. Since you have become executive director, are  
4 there minutes kept of the Americans who are entitled to  
5 vote as either direct delegates or alternate delegates  
6 to the Executive Council?

7 A. Yes, there are.

8 Q. And when do they start, again?

9 A. I am sorry.

10 Q. When do these minutes start?

11 A. April 1, 1994.

12 Q. Now, with respect to the Executive Committee  
13 of 16 persons, were minutes kept of their meetings  
14 prior to April 1, 1994?

15 A. It is my understanding that they were.

16 Q. And do you know where those minutes are?

17 A. I do not know where they are in their  
18 entirety, no. I am assuming that there may be minutes  
19 out in the storage space from years gone by but I have  
20 not actually seen minutes from previous times.

21 Q. You said you had some -- is it my  
—22 understanding that you have some minutes of prior

1 meetings?

— 2 A. Yes.

3 Q. And what minutes do you have?

4 A. I said I believe I have seen minutes from  
5 1944, when the organization was first started. There  
6 is a document that was put together, I believe in the  
7 mid '70s, for one of the celebrations, the 25th  
8 anniversary or something of the organization, that  
9 contains excerpts of minutes of earlier meetings,  
10 somewhere between 1944 and 1954, let's say, the first  
11 ten years. I have seen the minutes maintained within  
12 my tenure and I have seen one set of minutes from the  
13 annual convention conducted in Reno. I was a staff  
14 person at that time. Reno, Nevada, in 1993.

15 Q. And when was that meeting held?

16 A. I believe it was the first week in December  
17 in 1993, sir.

18 Q. Do you have copies of that meeting that was  
19 held in December 1993?

20 A. I do not have them with me, no, but I believe  
21 they are accessible at the office.

—22 Q. Do those minutes reflect the persons in



1 attendance?

— 2 A. No, they do not.

3 Q. Do they reflect who the delegates were to the  
4 -- was this a meeting of the -- strike that.

5 Was this a meeting in December of the  
6 Executive Committee or the Executive Council, in  
7 December of 1993?

8 A. December of 1993 would be a meeting of the  
9 Executive Council.

10 Q. Was there a member of the Executive Committee  
11 at the same time?

12 A. Yes, there would be. Typically -- I was not  
13 in attendance but I believe, to the best of my  
14 knowledge -- I recall a meeting -- it was an election  
15 year for the organization, so the Executive Committee,  
16 the outgoing committee, met prior to the actual  
17 convention itself, and then the new board, which would  
18 include some new officers and new area vice presidents,  
19 met at the conclusion of the convention. Again, I was  
20 not in attendance at those meetings but to the best of  
21 my knowledge, there were meetings then.

—22 Q. You were not in attendance at the meeting in

1 December of 1993?

2 A. I was in attendance at the actual convention  
3 itself as a staff person but I was not in the  
4 attendance of the Executive Committee, or the board  
5 meeting, as I refer to it.

6 Q. And that board meeting was held when?

7 A. I believe the board meeting, to the best of  
8 my knowledge -- the convention itself began on a Monday  
9 and runs through a Friday, typically, and as I recall,  
10 the board meeting, or the Executive Committee meeting,  
11 took place on Saturday prior to and then there was  
12 again a meeting, since it was an election year, that  
13 took place Friday afternoon at the conclusion of the  
14 convention. The committee then met again as official  
15 committee.

16 Q. Have you seen any minutes of the meeting that  
17 was held on that Friday afternoon?

18 A. I have not, no.

19 Q. And you have not seen any in your files  
20 maintained in your office?

21 A. No, I have not.

22 Q. Have you seen any minutes of the meeting held

1 on the weekend preceding the meeting of the Executive  
- 2 Council?

3 A. No, I did not.

4 Q. And were searches made within your files to  
5 try to ascertain if you had any such minutes?

6 A. I believe there were, yes.

7 Q. Do you have a copy of the minutes of the  
8 meeting of the General Assembly during the period --  
9 November 28 to December 3, 1993?

10 A. Which would be in Reno, Nevada.

11 Q. I will use your copy, if I may --

12 A. The resolution itself, sir?

13 Q. Yes.

14 A. Yes.

15 (Discussion off the record.)

16 BY MR. REINER:

17 Q. Let me ask some general questions about this  
18 meeting in Reno, Nevada. You say you were present at  
19 the meeting of the Executive Council; is that correct?

20 A. Yes. It is a little complicated, so if I may  
21 distinguish so I am not saying what would otherwise be  
-22 misleading, the Executive Committee is the equivalent

1 of the board. Executive Council is the equivalent of  
- 2 those tribal designees -- the official designate of the  
3 membership.

4 Then the General Assembly consists of the  
5 individual delegates who represent the tribal members,  
6 as well as individual members of the organization.  
7 This meeting in Reno, Nevada, actually consisted of the  
8 group, of both tribal representatives and official  
9 delegates as well as individual members, and even  
10 attendees at the convention. Not everybody who comes  
11 to the annual meeting is necessarily a member of the  
12 organization. This meeting would be the larger group,  
13 the annual convention, and I was in attendance.

14 Q. Were you there as a delegate?

15 A. No.

16 Q. Were you there as an officer?

17 A. No.

18 Q. Were you there as a member of the  
19 organization?

20 A. Yes, I was.

21 Q. Were there any resolutions adopted?

-22 A. It would be a general meeting. It would be

1 more than Executive Committee. The annual convention  
2 would be the appropriate way to refer to this, which  
3 would include the Executive Council as well as  
4 individual members, and I was in attendance at the  
5 convention, and there were a number of resolutions  
6 passed.

7 Q. Now, I would like to show you a copy of a  
8 document that is entitled at the top "Resolution NO.  
9 NV-93-143" and have it marked for identification first,  
10 please.

11 (Chase Exhibit No. 109  
12 was marked for identification.)

13 BY MR. REINER:

14 Q. I would like to show you Exhibit 109, and ask  
15 you, is that one of the documents that was found --  
16 that was produced in response to the subpoena?

17 A. Yes, it is.

18 Q. And now, just, in a general nature, were all  
19 --

20 MR. NOTO: Let me interrupt. For the record,  
21 this is Bates stamped 175008 and 175009, two pages.

22 BY MR. REINER:

1 Q. This was a document you located in the files  
- 2 of your organization; is that correct?

3 A. That is correct.

4 Q. And a search was made by the individuals whom  
5 you identified before for documents?

6 A. That is correct.

7 Q. And this is included within those documents?

8 A. That is correct.

9 Q. Did you have any discussions with those  
10 individuals as to what search they made?

11 A. Yes, I did. I had discussions with Mr.  
12 Moorehead and Mr. Stokes collectively.

13 Q. And what did they inform you they did?

14 A. They informed me they went through all of our  
15 files that we have in existence at 2010 Massachusetts  
16 Avenue, as well as information files, to ascertain any  
17 relevant documents pursuant to the request of the  
18 subpoena.

19 Q. You said information files, is that something  
20 different?

21 A. No. There are files of correspondence that  
-22 are kept chronologically and there are -- as I say, we

1 have attempted to at least have resolutions kept within  
- 2 the context of the time frame that they were passed in  
3 volumes, three-ring binders, and then we have some  
4 general information files that contain information by  
5 subject matter and so my instruction was to go through  
6 all of our files to see what would be there, including  
7 but not limited to general information files.

8 Q. Were there any minutes of any of the meetings  
9 that were held from November 28 to December 3, 1993?

10 A. There is a master list of resolutions that  
11 were passed and some notations contained thereupon, but  
12 no notations relevant to these particular -- this  
13 particular resolution. It would simply be a listing of  
14 the resolutions.

15 Q. And was a vote taken, a written ballot, for  
16 any of the resolutions that were adopted during the  
17 meeting on November 28 to December 3 by the General  
18 Assembly?

19 A. To the best of my knowledge there would be no  
20 balloting vote. Typically what happens, consistent  
21 with the way the organization conducts its business.  
-22 And if there are exceptions, I am not aware of them.

1 Resolutions are considered and debated among the  
2 general membership and they are usually voted on by  
3 voice vote and usually it is unanimous. And,  
4 accordingly, they are passed.

5 Q. And in terms of a voice vote, is any  
6 differential made between those persons who are  
7 delegates or alternates and those that are merely  
8 attending?

9 A. Yes, there would be. It is an honor system  
10 typically. The delegates are separated from the  
11 general attendees and they sit in their designated area  
12 as delegates and when a voice vote is called upon it is  
13 those delegates that are able to conduct business on  
14 behalf of their representative tribes, or individual  
15 members who also would have the vote, to vote who would  
16 say yeah or nay.

17 Q. Is there any raising of hands or anything of  
18 that nature?

19 A. To the best of my knowledge, I have not seen  
20 that procedure used.

21 Q. Now, in this resolution that has been marked  
22 as Exhibit 109, there is a certification on the last



1 page and it is signed by someone whose name is --  
- 2 G A I A S H K I B O S -- president. Is that the  
3 person's full name?

4 A. Yes. It is a traditional. It is  
5 Gaiashkibos. Gosh, as he is affectionately known.

6 Q. This indicates that a quorum was present.

7 A. That is correct.

8 Q. What is a quorum of the meeting of the  
9 General Assembly?

10 A. A quorum of the meeting of the General  
11 Assembly would be at least half of the membership of  
12 NCAI.

13 Q. Of the full membership?

14 A. Of the member tribes of the organization,  
15 yes.

16 Q. Would that be the tribes who have a delegate  
17 there?

18 A. That is correct.

19 Q. So a quorum would be 50 percent.

20 A. It would be outlined, for --

21 Q. If you take a look at Exhibit No. 108, and  
-22 take a look, if you would, on the page that says

1 "Quorum." Section III, "Meetings," and then it says

2 "Quorum" --

3 A. It is one-third of the membership. Let's  
4 make sure this is within the context of the Executive  
5 Council meeting.

6 Q. That is what I am --

7 A. Under article 5, it would be a -- a quorum  
8 would be one-third of the membership. Let me make sure  
9 that for an annual convention a quorum is not  
10 different.

11 Q. That is what I am trying to find out.

12 (Pause.)

13 A. I was incorrect. One-third is a quorum.

14 Q. One-third of the delegates?

15 A. Yes.

16 Q. And there is a notation with a quorum  
17 present?

18 A. Yes, on the certification portion.

19 Q. And you have no roll call of the persons that  
20 where in attendance at this particular point in time?

21 A. I do not have the roll call of the persons  
22 that would be in attendance at this point, in our

( 1 records. That would be, however, the procedure that  
- 2 would be conducted to establish a quorum.

3 Q. Were copies of drafts of this resolution  
4 circulated prior to the voting by the General Assembly?

5 A. I do not know.

6 Q. Were drafts of any resolutions circulated  
7 among the delegates prior to voting during this meeting  
8 of the General Assembly from November 28 to December 3,  
9 1993?

10 A. I do not know for certain. What I do know is  
11 that there is a committee structure to the  
12 organization. It has since changed under my tenure.  
13 The first directive we had was to streamline our  
14 committees. So I do not even know for certain which  
15 committees were in place at this time in Reno but there  
16 would be a variety of committees that may have  
17 jurisdiction over such a resolution. It could be a  
18 cultural concerns committee or a religious rights  
19 committee or so on.

20 And what typically happens within the  
21 structure of how the organization does business is that  
-22 the committees convene outside -- there is a designated

1 time set aside for the committees to convene and  
- 2 certain issues are discussed. In many instances  
3 resolutions are discussed and then committees make  
4 recommendations to the General Assembly. But,  
5 nonetheless, the General Assembly has the right to  
6 discuss in full any recommended resolution that a  
7 committee would make.

8 While I was not present for any debate prior  
9 to -- and I frankly do not recall being present for the  
10 consideration of this resolution, there may be  
11 discussion that took place within a committee, and to  
12 my knowledge, there are no such notes or drafts that  
13 exist relevant to any committee consideration of this  
14 particular resolution.

15 Q. You were in attendance at the meetings of the  
16 General Assembly, as I understand it.

17 A. That is correct.

18 Q. And did you see any drafts of any resolutions  
19 circulated prior to a vote?

20 A. No, sir, I did not.

21 Q. Before we leave this resolution, I do have a  
-22 few other questions for you. Did you ever have any

( 1 discussions with this fellow identified as Gaiashkibos,  
- 2 did you ever have any discussions with him about this  
3 resolution that has been marked as Exhibit 109?

4 A. Yes, I did.

5 Q. When did you have such a discussion?

6 A. I am trying to recall. He was -- this was an  
7 election year for the organization, 1993, in Reno,  
8 Nevada, and Gaiashkibos was reelected by acclamation as  
9 president of the organization. He actually served two  
10 years as president of the organization, consistent with  
11 my tenure as executive director. The resolutions are  
12 the policy of the organization, our mandate, if you  
13 will, and I recall a conversation, I am sorry, I do not  
14 know what month it would be, in 1994 however, so, after  
15 the passage of this resolution, about a piece of  
16 legislation that I believe Senator Campbell was either  
17 sponsoring or had sponsored or was planning to sponsor  
18 relevant to the resolution, and I cannot recall the  
19 details exactly of our conversation but we had a brief  
20 conversation on the status of a number of legislative  
21 initiatives and this was one of them.

-22 Q. Did you have any discussions with him about

1 the use of the name "Redskins" by the Washington  
- 2 Redskins football team?

3 A. Within the context of that same conversation,  
4 regarding an initiative by Mr. Campbell, I do recall  
5 the president of the organization expressing his own  
6 feelings of opposition to the use of the term  
7 "Redskins" designating an official football team.

8 Q. Do you know a person named Joe de la Cruz?

9 A. I do know Mr. de La Cruz.

10 Q. And was he a president of the NCAI at one  
11 time?

12 A. Yes, he was.

13 Q. And during what period?

14 A. I do not know. I believe, actually, Mr. de  
15 La Cruz served for -- in the mid '80s. He was the  
16 outgoing president when I came on board for the first  
17 time as a staff person for NCAI in 1986, and he may  
18 have served prior to that in a couple of different  
19 terms.

20 Q. Did you ever have a discussion with him about  
21 his views -- did you have any discussions with Mr. de  
-22 La Cruz about whether he had any views on the use of

( 1 the name "Redskins" by the Washington Redskins football  
- 2 team?

3 A. To the best of my recollection, I have never  
4 discussed this particular issue with Mr. de La Cruz.

5 Q. Did Mr. Gaiashkibos ever discuss with you any  
6 views that other prior presidents of the NCAI had on  
7 this issue of the use of the name "Redskins" by the  
8 Washington Redskins football team?

9 A. As I recall, within the context of this  
10 conversation, again, about a piece of legislation Mr.  
11 Campbell was considering relevant to this resolution, I  
12 do recall President Gaiashkibos referring to a past  
13 president of NCAI who is now deceased, a gentlemen  
14 named Reuben Snake and something significant Mr. Snake  
15 had said to him at one point relative to use of mascots  
16 and in particular, the Redskins.

17 Q. Did you ever have any discussion with Mr. de  
18 la Cruz about any testimony which you might have given  
19 before a congressional committee concerning the use of  
20 the Washington Redskins name?

21 A. No, I have not.

-22 Q. Are you aware of any testimony he may have

1 given to a congressional committee concerning the use  
- 2 of the word "Redskins" by the Washington Redskins  
3 football team?

4 A. No, I am not.

5 Q. Do you have any files on any legislative  
6 hearings concerning the use of mascots involving Indian  
7 images or motifs?

8 A. We would have a file, sir -- I believe there  
9 is a small file on Mr. Campbell's initiative which, if  
10 I recall appropriately, was an appropriations matter  
11 regarding a stadium. There may be other matters in  
12 there but as far as hearings that have actually taken  
13 place on this issue, I do not recall such hearings or  
14 such testimony.

15 Q. Do you recall seeing any documents related  
16 thereto?

17 A. No, I do not.

18 Q. Now, I am going to show you a document that  
19 was marked Exhibit 57 which has a title, "Resolution  
20 NO. EXDC-93-11." There is another document that was  
21 also produced that has the same designation but it has  
-22 two attachments to it that -- which is the one that



1 number 57 does not. That document was 102. The other  
- 2 one we had was 57. Okay?

3 A. Okay.

4 Q. I would like to show you those documents, if  
5 you would, please, and I have some questions.

6 We have marked documents in other depositions  
7 in this proceeding and we are just going in sequence,  
8 so that when I show you a document that was already  
9 marked, it was marked in another deposition.

10 A. Certainly.

11 Q. Now, I would like to draw your attention  
12 first to Exhibit 57, and then I will go to Exhibit No.  
13 102.

14 With respect to Exhibit No. 57, if you look  
15 at the second page, it indicates that this was adopted  
16 by the Executive Council during the Executive Council  
17 meeting of January 18 to 19, 1993, in Crystal City,  
18 Virginia.

19 Do you see that?

20 A. Yes, I do.

21 Q. Were you present at this meeting of the  
-22 Executive Council during the period from January 18,

1 1993?

2 A. I believe, to the best of my knowledge, I was  
3 present for one brief presentation that I made on the  
4 agenda. I cannot recall the date or frankly even the  
5 time of day but I do believe I presented on the agenda,  
6 relevant to my work with the commission I referred to  
7 earlier. Otherwise I was not in attendance at this  
8 meeting.

9 Q. Do you know if there are any minutes of this  
10 meeting?

11 A. I do not.

12 Q. Has any search been made for them?

13 A. Yes, we searched our files for such minutes,  
14 and as I believe we had simply a listing of the  
15 resolutions that were passed at that time -- then, as I  
16 mentioned, I had attempted to reach Ms. Joseph who  
17 suggested that minutes were left somewhere with the  
18 organization and, again, we attempted to find such  
19 minutes but they were not -- we were not able to  
20 ascertain them other than simply a listing of  
21 resolutions that might have been passed.

22 Q. But minutes could be in the warehouse?

1 A. There may be minutes in the warehouse, yes.

2 Q. Now, if you look at the second page, there is  
3 a certification by Rachel A. Joseph. Is that the lady  
4 you were referring to before?

5 A. Yes, she was the recording secretary at the  
6 time.

7 Q. There is no indication that a quorum was  
8 present on this particular resolution, as there was in  
9 the prior resolution.

10 A. That is correct. For whatever reason, a  
11 different certification was used. I think there are  
12 two different recording officers. The previous one was  
13 Diane Kelly. This is Ms. Joseph.

14 Q. Do you have any records of the persons that  
15 attended this particular meeting of the Executive  
16 Council?

17 A. Sir, I do not.

18 Q. And a quorum would have been one-third of the  
19 persons eligible to be there; is that correct?

20 A. That is correct.

21 Q. And that would be 16 persons that are  
-22 eligible to be at a meeting?

1           A.    No, sir.  Again, this would be the Executive  
- 2   Council.  The Executive Council will change and shift  
3   according to the membership.  I do not know what the  
4   membership of the organization was at that time.  I can  
5   tell you currently, if, for example, our membership is  
6   206 tribes, it would be one-third.  At that time the  
7   membership would have been 100 tribes.  It could have  
8   been 400 tribes.  I don't know.  But it would be a  
9   third of the membership at that time, the tribal  
10  members.

11               The Executive Council is those delegates of  
12  the tribes, and historically, consistent with the  
13  policies of the organization, and if there is an  
14  exception I am not aware that it exists, in order for  
15  business to be conducted, that is to say, in order for  
16  a resolution to even be considered officially by the  
17  body of the organization, there must be a quorum  
18  established.  Otherwise there would be no consideration  
19  of business.

20           Q.    In terms of the adoption of a resolution at  
21  this particular meeting in January -- this is a meeting  
-22 that was different than the annual convention; is that

1 correct?

— 2 A. Yes, sir.

3 Q. Now, this particular resolution that I am  
4 referring to as Exhibit 102, was adopted by the  
5 Executive Council. Is that right?

6 A. As I understand it, yes.

7 Q. And that is different than the resolution  
8 adopted by the General Assembly in November 28 to  
9 December 3, 1993?

10 A. It would be two different meetings.

11 Q. And the Executive Committee is not the same  
12 as the General Assembly?

13 A. That is correct. The Executive Council -- I  
14 believe, sir, I believe you are referring to the  
15 Executive Council. The Executive Committee is  
16 consistent with the board of directors. The Executive  
17 Council is the delegates who actually vote on behalf of  
18 the tribes.

19 Q. So that these Executive Council meetings in  
20 January of 1993 were a different group than the General  
21 Assembly that met in November 28 to December 3, 1993?

—22 A. I would anticipate there would be some

1 differences since it was a different meeting, although  
- 2 many of the same people may well have been there.

3 Q. Now, were any drafts of this resolution, 102,  
4 circulated prior to the meeting?

5 A. To the best of my knowledge, no.

6 Q. Were you in attendance at the time that this  
7 resolution, either 57 or 102, depending on which one we  
8 look at, was adopted?

9 A. I was not.

10 Q. Did you speak to Rachel A. Joseph about this  
11 particular resolution?

12 A. Yes, I did.

13 Q. And did she inform you at all, in any manner,  
14 concerning the voting on this particular resolution?

15 A. No, she did not, other than recalling that it  
16 passed.

17 Q. Did she have any comment about any effort to  
18 circulate the resolution prior thereto?

19 A. No, she did not.

20 Q. Did she make any reference to any discussions  
21 concerning the petition for cancellation in these  
-22 proceedings?

1           A.    Other than that it was a subject of the  
- 2 resolution, no.

3           Q.    Do you know whether or not the petition for  
4 cancellation that has been filed in this proceeding was  
5 circulated among the members of the Executive Council?

6           A.    I do not have firsthand knowledge, no, but it  
7 would be consistent with the policy of the  
8 organization, within the context of Executive Council  
9 meetings, which are a tighter time frame.

10                   The annual convention permits our committees  
11 to meet and make recommendations on various  
12 resolutions.    So within the context of an annual  
13 convention, to wit, the Reno meeting, there may be 100  
14 plus resolutions actually considered.    Within the  
15 context of an Executive Council meeting there is no  
16 structure for committees to meet.    So resolutions would  
17 come directly from the floor and be debated by the  
18 membership.

19                   Historically, and I know no exceptions  
20 because it is the policy today, that even for a  
21 resolution to be considered at an Executive Council  
-22 meeting, a few things must happen.    First, there must

1 be a quorum present; and secondly, the resolution must  
- 2 meet a criteria that has been in existence at least  
3 verbally. So I adhere to it in conducting our  
4 meetings, that the issue be of national significance  
5 and that it be emergency in nature.

6 So, if, for example, my tribe had its own  
7 issue and they wanted support from the National  
8 Congress of American Indians, within the context of an  
9 Executive Council meeting, they would not be eligible  
10 to bring that before the meeting. It would come  
11 directly within the context of the meeting of the  
12 whole, no committees, and it must be of national  
13 significance, and emergency, if you will, in nature,  
14 and to the best of my knowledge.

15 That process has been in place for the  
16 history of the organization, has not been deviated  
17 from, and that would be the context in which this  
18 resolution would actually be forthcoming. And any  
19 attachments contained thereto or referred to in the  
20 resolution -- to the best of my knowledge, again, this  
21 process has not been deviated from -- must also be  
-22 brought before the membership to be considered before



1 the resolution would be voted on and passed.

— 2 Q. Was anything circulated?

3 A. I do not know. I do not know.

4 Q. Is it the practice to circulate resolutions  
5 among the Executive Council prior to adoption?

6 A. It is not the practice to circulate  
7 resolutions prior to. Because the meeting is not  
8 necessarily a resolution meeting. Typically  
9 resolutions forthcoming from Executive Council are very  
10 few, because they have to be emergency in nature and  
11 meet this criteria, compared to the annual convention  
12 where actually there is a whole structure to  
13 accommodate the passage of resolutions that involves  
14 committees that make up and consider and debate in  
15 advance, in which case there may be drafts of  
16 resolutions.

17 But with Executive Council, that structure is  
18 not in place. It is an information meeting of the  
19 body. Various members have dialogue and debate and if  
20 there is an emergency resolution it can be raised from  
21 the floor by a member in good standing. Anybody can  
—22 stand up and say this is an emergency matter and we ask

1 that it be considered. Usually they are very few. In  
- 2 fact, there are many Executive Councils where no  
3 resolutions were considered, debated and passed.

4 Q. Now, is there a proposal for a resolution,  
5 such as appears in Exhibit No. 57?

6 A. I am sorry.

7 Q. Is there usually a proposal for resolutions  
8 that are presented to the executive?

9 A. A proposal?

10 Q. A proposer.

11 A. Yes.

12 Q. And a seconder?

13 A. Yes.

14 Q. And is that recorded in any manner?

15 A. It should be.

16 Q. And do you have any idea whether -- was any  
17 recording made for the resolution DC-93-11?

18 A. I was not able to find such recording.

19 Q. Did you speak to Ms. Joseph about that?

20 A. Yes, I did.

21 Q. And did she have any information?

-22 A. She could not recall who presented the

1 resolution. She only remembered that this resolution  
2 did pass.

3 Q. Is there -- in practice and procedure, is  
4 there a period when resolutions are debated among  
5 members of the Executive Council?

6 A. Within the context of the Executive Council  
7 meeting, that may shift and change slightly from  
8 meeting to meeting, and because the meeting itself is  
9 not a meeting designed to accommodate the discussion  
10 and debate of resolutions, usually there is not even --  
11 there is no place in the agenda, the formal agenda,  
12 that would be developed in advance to accommodate such  
13 discussion.

14 If in fact there are emergency circumstances  
15 or an issue of such significance, that it needs to be  
16 discussed, it can be brought up at some course of the  
17 debate. Usually such consideration of resolutions  
18 would occur on the second day. That has been my  
19 experience.

20 Q. And are the texts of resolutions read out or  
21 more the substance, as a matter of practice and  
22 procedure?

1           A.    As a matter of practice and procedure, in my  
- 2   experience, actually, in an Executive Council session,  
3   which would be different than annual convention, in  
4   fact the text of resolutions is read out before the  
5   membership. I believe there may have even be a meeting  
6   where the resolution was put up on screen for the  
7   membership to debate -- to see at that point.

8           So in this instance, it could well have been  
9   that such a resolution was read out. I was not present  
10   but that is -- that is consistent with my experience.  
11   Because of the nature of the resolutions being of  
12   significance, they are usually read before the  
13   membership.

14          Q.    Was Ms. Joseph able to advise you whether in  
15   fact this resolution was read?

16          A.    No, she was not.

17          Q.    Is there anybody presently at the NCAI that  
18   could provide information as to whether or not this  
19   resolution was read?

20          A.    It may be that the president of the  
21   organization, the current president of the  
-22   organization, Ron Allen, who was actually the treasurer

1 of the organization at that time -- I discussed the  
2 issue with Mr. Allen, and he believes, actually, that  
3 he was present but he will have to check his notes  
4 because he cannot recall the details of the meeting  
5 that long ago, and accordingly, if he has notes or if  
6 his calendar indicates something, he might be able to  
7 have his recollection refreshed. But immediate recall  
8 to the point of detail as to the discussion and debate  
9 of this resolution, he did not have that either.

10 Q. Did he provide you with any notes?

11 A. No.

12 Q. Did you ask him for anything?

13 A. I said, "Check your notes, and see if you  
14 have anything." He said, "I will call you back if I  
15 have anything." He said, "I just remember a resolution  
16 passing." He said, in fact, "I may have been out of  
17 the country for the meeting and only recall the fact  
18 that the resolution passed." It would not be  
19 consistent with his duties in the organization  
20 necessarily to have notes but it may be a matter of  
21 interest that he may have notes.

22 Q. Where does Mr. Allen live now?

1 A. He lives in Washington State.

— 2 Q. Did he ever call you back to inform you  
3 whether he had notes?

4 A. He did not call me back but in the course of  
5 another discussion, he said that he had looked and he  
6 did not have any -- he had no detailed notes involving  
7 this issue.

8 Q. Is there anyone else that you know of that  
9 was in attendance at the meetings that could give us  
10 some information with respect to the adoption of this  
11 resolution?

12 A. The only person I would be aware of would be  
13 Mr. Apodaca, who was a board member of the organization  
14 at the time the resolution was considered.

15 Q. Did you speak to him about this?

16 A. No, I did not.

17 Q. Is there anyone else?

18 A. That I am aware of?

19 Q. Yes.

20 A. No.

21 MR. REINER: Time for a five-minute break.

— 22 (Discussion off the record.)

1 (Brief recess.)

— 2 BY MR. REINER:

3 Q. I believe that you said you read minutes of  
4 the meeting of the General Assembly from November 28 to  
5 December 3, 1993?

6 A. Yes, there are minutes.

7 Q. And you didn't produce copies of those?

8 A. No, sir, I did not produce copies of those.  
9 I do not believe that they refer to anything at this  
10 point, relevant to the context of the subpoena. I  
11 would be happy to have a copy given to you.

12 Q. I would like to have a copy of the meeting  
13 minutes, November 28 to December 3, 1993.

14 A. Reno, Nevada.

15 Q. Did you ever read any minutes of the meeting  
16 of the Executive Council, January 18 and 19 of '93, the  
17 one in Crystal City, Virginia?

18 A. No. As I say, I have only seen, and I  
19 believe it is relevant to this meeting, a list of  
20 resolutions passed.

21 Q. Do you have a copy of that list?

—22 A. I do not have a copy with me.

1 Q. But you do have a copy?

2 A. I believe so.

3 Q. Would you provide us with a copy of that?

4 A. Absolutely, and I believe it was relevant to  
5 this meeting.

6 Q. Is there anything in addition to the list  
7 that you saw about this meeting?

8 A. No.

9 Q. A copy of the exhibit -- which one do you  
10 have?

11 A. 57.

12 Q. Take a look at No. 57, if you would, for a  
13 minute. This is signed by Rachel A. Joseph, recording  
14 secretary. Do you see that?

15 A. Yes.

16 Q. And as a matter of practice and procedure, is  
17 that signed after the meetings were completed?

18 A. Yes.

19 Q. Did you see any copies of this document  
20 without a signature thereon?

21 A. I have never seen such copies.

22 Q. Did you ask any of the people that were



1 looking for documents to try to find any drafts of  
- 2 documents?

3 A. Yes, I did. I instructed my staff to look  
4 for any and everything that might be relevant.

5 Q. And they did not come up with anything?

6 A. They did not come up with anything.

7 Q. Was there anything concerning any committee  
8 that may have considered this -- the preparation of  
9 this resolution?

10 A. No, there was not, and, again, that would be  
11 inconsistent with this meeting, the Executive Council  
12 meeting, because there is no committee structure that  
13 was accommodated for the purpose of an Executive  
14 Council meeting.

15 Q. Do you have any information as to who  
16 prepared this resolution?

17 A. I do not, no.

18 Q. Is there anything in your files that would  
19 indicate that?

20 A. No.

21 Q. Do you have any information at all from any  
-22 source as to who prepared this resolution?

1 A. I do not.

2 Q. I believe you said that resolutions were  
3 submitted to the Executive Council if they were  
4 emergency?

5 A. Yes. If they were of national significance  
6 or emergency in nature.

7 Q. Is there anything in this resolution, 57,  
8 that would indicate there is an emergency?

9 A. I would suggest the subject matter -- again,  
10 I was not present, but having some experience with NCAI  
11 meetings, that the subject matter itself would  
12 constitute an emergency of national significance, but I  
13 was not there for debate or discussion.

14 Q. Is this a typical type of resolution that is  
15 considered an emergency by the NCAI?

16 A. I would say it would be difficult to define  
17 typical, because issues shift and change and there are  
18 so many of them. But an issue such as this, which has  
19 national significance, and which would be of concern to  
20 at least every Indian person I have ever had contact  
21 with, would, for all intents and purpose, meet such a  
22 threshold. Appropriations measures might be other

1 examples of such emergency measures.

— 2 Q. At any time prior to your becoming the  
3 executive director of the NCAI, did you have any  
4 discussion with anyone concerning the petition that was  
5 filed in this proceeding?

6 A. No.

7 Q. Were you aware that a petition had been filed  
8 in this proceeding?

9 A. Yes, I was.

10 Q. And how did you become aware of it?

11 A. I was aware -- I am not sure exactly which  
12 method actually was my first, but there was some  
13 discussion among Indian country pursuant to a  
14 resolution being passed by NCAI, and I was aware that a  
15 resolution had been passed -- I believe there may have  
16 been an article in The Washington Post at one point,  
17 that caught my eye and, needless to say, general  
18 discussion.

19 I get asked by cab drivers often what I think  
20 of, in this instance, particularly the use of the term  
21 "Redskins," and if I recall correctly, a newspaper  
—22 article caught some attention. One of those, whether

1 it was a public discussion or actually hearing about  
- 2 the resolution in some capacity, I did become aware  
3 prior to my executive directorship that this was in  
4 existence.

5 Q. When you say this was in existence, are you  
6 talking about the resolution?

7 A. No, the petition.

8 Q. And you made reference to cab drivers raising  
9 this issue with you.

10 A. I believe there was a newspaper article that  
11 ran at some point, and I go to and from the airport an  
12 awful lot and when somebody becomes aware of the fact  
13 that I am American Indian, there often is a question,  
14 and in this instance a question had been asked a couple  
15 of different times.

16 Q. When you say they become aware you are an  
17 Indian, do you identify yourself in some manner?

18 A. Usually.

19 Q. You refer to Indian country, what is that?

20 A. Indian country is a term that refers  
21 generally to Indian country, to those 500 plus tribal  
-22 governments that exist and the lands contained therein

1 and the people enrolled therein. So it is a general  
- 2 term used regularly by both Indians and non-Indians, to  
3 identify -- rather than to go through the exercise of  
4 discussing all 550 plus federally recognized tribes,  
5 the term "Indian country" has been used.

6 Q. Is that a designation for the Indian tribes  
7 themselves -- is that what you mean?

8 A. Yes. And there are differences -- there are  
9 so many unique varieties and variances among tribal  
10 governments. In some instances there are not  
11 reservations, there are not land-defined reservations.

12 In Alaska, there is a different structure.  
13 They have actually adopted a corporate structure. So  
14 the term "Indian country" is one that has been widely  
15 accepted to identify this great variance of existence  
16 of tribal governments and lands and bodies and so on.  
17 It refers to reservation-based -- the governmental  
18 entity. "Indian country" does not refer to urban  
19 Indians or Indians living outside of their own tribal  
20 communities.

21 Q. And each Indian tribe determines the  
-22 qualifications for enrollment?

1 A. That is correct.

2 Q. And some of them may have 1/16th heritage by  
3 blood; is that correct?

4 A. That is correct.

5 Q. And others are even less than that?

6 A. I am not aware of any that are less than  
7 that. I am only aware of one circumstance, perhaps,  
8 where quantification is not the criteria, but rather  
9 descendency, and if one can prove descendency, then in  
10 fact one is eligible to become a member of the tribe.  
11 And to the best of my knowledge, the one tribe that  
12 employs that is the Cherokee Nation of Oklahoma.

13 Q. At any time prior to your coming here, did  
14 you read a copy of the petition to cancel the  
15 registrations?

16 A. Prior to my coming here?

17 Q. Yes.

18 A. Today?

19 Q. Yes.

20 A. The first time that I read the petition for  
21 cancellation in its entirety, actually, was last night.

22 Q. And reference is made to a series of numbers

1 for U.S. registered trademarks. Did you see that in  
- 2 the petition?

3 A. If you could permit me to look at the  
4 petition, I could recall -- yes, I see them.

5 Q. Have you ever seen the registrations  
6 themselves?

7 A. Other than as a document attached to the  
8 resolution, no, I have not. In terms of --

9 Q. Let me clarify. Let me show you a document  
10 that was marked as Exhibit No. 4. Have you ever seen  
11 that document before, or a copy of it?

12 A. I have not.

13 Q. And similarly, document number 7, have you  
14 ever seen that?

15 A. No, sir, I have not.

16 Q. And to make it very quick, would you look at  
17 the documents marked between 2 through 8 and tell me if  
18 you have seen any of those documents before.

19 (Pause.)

20 A. I have not seen these documents.

21 Q. In terms of the documents that were assembled  
-22 by your staff persons, did you have a discussion with

1       them after they had assembled the documents and  
- 2       delivered them to you?

3           A.     A very brief discussion.

4           Q.     And what was the substance of that  
5       discussion?

6           A.     It was predominantly procedural. I just  
7       asked one more time to be sure that we had actually  
8       exhausted -- done a very exhaustive search through or  
9       filing system and the documents that exist and simply  
10      followed up to the initial request, and then we  
11      actually went through very briefly together the  
12      documents to make sure that I understood all that was  
13      contained therein.

14          Q.     And this was a conversation with whom?

15          A.     With Mr. Moorehead and Mr. Stokes.

16          Q.     At that point in time, did you ask them how  
17      many boxes or files were located over at the storage  
18      facility?

19          A.     I did not discuss that issue with them in  
20      detail other than to refer to the literally dozens --  
21      probably more like hundreds of boxes that are in the  
-22      storage facility.



1 Q. Do you have a receipt for the boxes that were  
- 2 sent to the storage facility?

3 A. No, we do not. They were actually physically  
4 taken to the storage facility -- to the best of my  
5 knowledge, the last trip on behalf of the organization  
6 to the storage facility, other than to try to attempt  
7 to find Christmas decorations, actually occurred prior  
8 to June 15, 1993, sometime between -- excuse me, 1994,  
9 when we physically moved our offices from Pennsylvania  
10 Avenue Southeast to Massachusetts Avenue Northwest.

11 And I think, as I explained earlier, at that time there  
12 were several blocks of documents with no apparent order  
13 to them but which simply had NCAI letterhead or  
14 appeared to be official with the organization and  
15 rather than throw such documents out, obviously we  
16 wanted to save those. But because there was no order  
17 and there appeared to be no such index, they were  
18 simply taken to the storage facility because we did not  
19 have space to accommodate them in our new space.

20 Q. Did anyone ever go to the storage facility to  
21 see if there is identification on the boxes of the  
-22 content of each box?

1           A.    For that express purpose, no.  What I can  
- 2   tell you, when I first became executive director of the  
3   organization, and for obvious reasons, have a concern  
4   about a lack of a file system throughout history,  
5   because it is currently a significant organization, I  
6   had a discussion with Rose Robinson, who unfortunately  
7   since is deceased.

8           Rose was the eldest member of our staff and,  
9   frankly, was a walking institution of knowledge on the  
10   organization.  She had been a member of the  
11   organization for 30 plus years and it was a tremendous  
12   loss to us.  But at one point I did ask Rose, "Is there  
13   any way we can ascertain or put some order to the boxes  
14   in storage?  I have not been there, just so we can  
15   begin rebuilding somehow the history of the  
16   organization?"  And we frankly -- she was taken ill  
17   with cancer and unfortunately very shortly thereafter  
18   deceased and we never had a follow-up conversation to  
19   that initial conversation.

20           Q.    But has anybody ever gone over there to see  
21   in fact if there is any designation on boxes indicating  
-22   the contents thereof?

1           A.    It has been reported to me by Ms. Smith, who  
2   accompanied Ms. Robinson at one point, and we did not  
3   have the follow-up conversation -- we went to get  
4   Christmas decorations that somebody believed were  
5   there, at least for the boxes we can see, and again, I  
6   have not been to this space -- it is a rather long,  
7   deep space and immediately in front one can see boxes.  
8   There is no order or dates on those boxes. There may  
9   be boxes behind. There may be some boxes that we have  
10   not seen, that may have "1985" marked on them. I would  
11   question, however, even that, because in my experience,  
12   the boxes we took out of NCAI, documents spanned all  
13   years and really had no order to them.

14           MR. REINER: Off the record.

15           (Discussion off the record.)

16           BY MR. REINER:

17           Q.    If you would just take a look at Exhibit No.  
18   57. If you take a look at the third "whereas" clause.  
19   The first page, the third "whereas" clause.

20           Do you have any information of anyone  
21   explaining any terminology used in the cancellation  
22   petition filed on September 10, 1992, to the members of

1 the NCAI?

2 A. I do not, other than the fact that it appears  
3 in this resolution, and the resolution, as it appears  
4 here with Ms. Joseph's signature, and the Exhibit A and  
5 B, is what is our official part of the record. So that  
6 is what I have to go by and what serves as the  
7 governing document for our purposes.

8 Q. And you have no other information about that?

9 A. No, I do not.

10 MR. NOTO: And for the record, she is now  
11 referring to Exhibit 102.

12 BY MR. REINER:

13 Q. Do you have any letter in the file, that you  
14 know of, that indicates that copies of this document,  
15 102, were sent to Mr. Apodaca?

16 A. Sir, I do not have those in our file.

17 Q. Do you know if Mr. Apodaca received Exhibit  
18 No. 57, without the two exhibits, prior to receiving  
19 102, from files in your organization?

20 A. I do not know.

21 Q. Have you ever discussed with Mr. Apodaca the  
-22 receipt of 57 or 102?

1 A. No, I have not.

2 Q. Has Mr. Apodaca visited your offices since  
3 the time you became executive director?

4 A. Mr. Apodaca actually was housed in our office  
5 for a period when I became executive director, working  
6 as a cultural -- a religious freedom coordinator.  
7 There was pending legislation before Congress at that  
8 time, on behalf of the American Association on Indian  
9 Affairs located in New York City, and he was here to  
10 help coordinate a legislative effort and our in-kind  
11 contribution to that effort was the use of office  
12 space.

13 Mr. Apodaca was housed at our office and we  
14 had general discussions. I have never discussed,  
15 however, any of the details of either this resolution  
16 or the petition with Mr. Apodaca.

17 Q. Do you have any copies of the resolution 102  
18 which do not have attached to that Exhibit A or B?

19 A. In our file system, no. What exists as part  
20 of our record is this resolution and the subsequent  
21 attachments.

22 Q. And nothing else -- no other form of this

1 resolution?

2 A. No, no other form.

3 Q. Do you have any letters in your files which  
4 would indicate that resolutions were sent to any of the  
5 delegates to the Executive Council following the  
6 meeting on January 18 to 19, 1993?

7 A. No, sir.

8 Q. Is it a practice and procedure to send copies  
9 of resolutions to delegates following the meeting of  
10 the Executive Council?

11 A. Within the context of my tenure, it has been  
12 pursuant to requests, simply because of cost issues. I  
13 can't speak to the past parties, whether they were  
14 mailed out or simply made available upon request.

15 Q. Were any press releases prepared for  
16 circulation among members of the NCAI concerning  
17 resolutions adopted at the meeting of January 18 to 19,  
18 1993?

19 A. I am not aware of any such press release.

20 Q. Was any press release sent out with respect  
21 to the meeting held by the General Assembly during  
22 November 28 to December 3, 1993?

1           A.    Again, I am not aware of a press release that  
2 was generated by the organization for the purposes of  
3 that meeting, either.

4           Q.    Any writings that were made or circulated by  
5 the organization concerning the meetings of January 18  
6 and 19, 1993?

7           A.    Not that I am aware of.

8           Q.    And, any meetings of the organization  
9 concerning the meetings that were held from November 28  
10 to December 3, 1993, any writings sent out to any  
11 individuals following the meeting?

12          A.    Certainly with respect to 1993, there may  
13 have been, as I recall, in excess of 100 resolutions  
14 passed. So, actual relevance to this particular issue,  
15 clearly identified, to the best of our knowledge, we  
16 identified those documents turned over to you; but in  
17 terms of the general meeting that took place, there  
18 could be literally hundreds of letters that would exist  
19 in our files beginning in 1994, at least I can attest  
20 to that much, that are indicative of some type of  
21 action taken on behalf of the organization pursuant to  
-22 the resolution.

1           It is not uncommon for a resolution to ask us  
- 2   to write a letter to a member of Congress, for example.  
3   And if we did so, following the convention itself, then  
4   at least under my leadership of the organization, that  
5   would be in the files and it could be under any one of  
6   the 100 plus issues considered at that time.

7           Q.   Do you have anything in your files that would  
8   indicate that requests went out to any tribal members  
9   concerning the subject matter of the resolution  
10   DC-93-11 which is Exhibit No. 102?

11          A.   No.

12          Q.   Were there any surveys taken of the tribal  
13   councils concerning the substance of Exhibit 102?

14          A.   Not that I am aware of.

15          Q.   Do you have any letters from any tribal  
16   councils concerning the subject matter of Exhibit 102?

17          A.   Any correspondence that we would have would  
18   be contained herein and I am not aware of any such  
19   specific letters at this point.

20          Q.   Do you have any records of any verbal  
21   communications -- strike that.

-22               Do you have any records which were made



1 following any verbal communication from any tribal  
2 council concerning the substance of the resolution set  
3 forth in Exhibit No. 102?

4 A. No.

5 Q. Do you have any with respect to -- do you  
6 have any memorandum of any conversations with any  
7 members of tribal councils concerning 109?

8 A. Exhibit 109?

9 Q. The first one was for the meeting -- 102  
10 relates to the meeting January 18 to 19 in Crystal  
11 City. Do you have any memorandum or notations of any  
12 discussions with any tribal council member concerning  
13 that resolution?

14 A. No, I do not.

15 Q. With respect to Exhibit 109, do you have any  
16 notes or memoranda of any discussions held with any  
17 tribal members -- tribal council members, concerning  
18 any contents of this resolution?

19 A. No, I do not.

20 Q. Do you have any records of the number of  
21 tribes who had delegates to the NCAI in 1967?

-22 A. No.

1 Q. Do you have any records of any resolutions  
2 that were adopted concerning the use of the name  
3 "Washington Redskins" from the period 1967 to 1992?

4 A. Not that I am aware of.

5 Q. Do you have any letters or correspondence  
6 concerning the use of the word "Redskins" or  
7 "Washington Redskins" with respect to the name of the  
8 football team here in Washington, D.C., for the period  
9 1967 to 1992?

10 A. We were not able to identify any.

11 Q. Do you know how many tribes had delegates to  
12 the NCAI in 1974?

13 A. I do not.

14 Q. Are there any records anywhere that you are  
15 aware of?

16 A. There may be records in our storage facility,  
17 but I am not aware of such records.

18 Q. In 1985, can you tell me how many delegates  
19 there were to the NCAI?

20 A. No, I could not.

21 Q. In 1990, could you tell me how many tribal  
22 delegates there were to the NCAI?

1 A. I could not.

2 Q. Do you have a resume of yours?

3 A. I do not, but I would be happy to provide  
4 that.

5 Q. Perhaps you can briefly give me your  
6 educational background. Where did you go to college?

7 A. I went to college at Boston University and  
8 completed my undergraduate degree at Boston University.

9 Q. In what year?

10 A. In 1985 I graduated.

11 Q. And what was your major?

12 A. Film theory and criticism.

13 Q. And then did you take any graduate work?

14 A. I did.

15 Q. And what was that?

16 A. I went to law school at the University of New  
17 Mexico and graduated from the University of New Mexico  
18 in 1990 and came back to Washington, D.C.

19 Q. And are you admitted to practice law in any  
20 state?

21 A. I am not.

22 Q. Are you admitted to practice law in D.C.?

1 A. No, I am not. I went to law school, frankly,  
- 2 to do exactly what I am doing now.

3 Q. Could you give me a synopsis of your job  
4 experience from the time you graduated from law school  
5 until you became the executive director?

6 A. Sure. Upon graduation from law school I  
7 accepted a position with the honors attorneys program  
8 at the Department of Justice and served there for -- it  
9 was close to a year, and then accepted an appointment  
10 as the deputy director for the National Commission on  
11 American Indians, Alaskan Natives & Native Hawaiian  
12 Housing, a congressionally mandated commission, and so  
13 I served with the commission for its duration, which  
14 was, I believe, just over two years -- maybe it was  
15 just over three years, there was an extension. And  
16 then came to work for the National Congress of American  
17 Indians as the director of legislative affairs in  
18 September of 1993 and then accepted the position of  
19 executive director of the organization in April of  
20 1994.

21 MR. REINER: Why don't we take a break.

-22 (Whereupon, at 12:30 p.m., the hearing was

1 recessed, to reconvene at 1:30 p.m. on the same day.)

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## AFTERNOON SESSION

(1:40 p.m.)

BY MR. REINER:

Q. During your testimony, reference has been made to the Executive Council as well as to the annual Congress; is that right?

A. That is correct.

Q. Now, there is also an Executive Committee of the NCAI; is that right?

A. That is true.

Q. And how often does the Executive Committee meet?

A. It very much depends, based on various administrations, but typically the Executive Committee will meet either prior to or just after an annual meeting and then they may meet on a regular basis throughout the year. Our current Executive Committee that I work with, already in 1996 has had three meetings. The former Executive Committee only had had one meeting by this time. So it varies.

Q. Now, in 1996 there were three meetings. Can you tell me, was there any discussion concerning the

1 use of the words "Redskins" or "Washington Redskins"  
- 2 with reference to the football team?

3 A. To the best of my recollection, no.

4 Q. And were there meetings during 1995 of the  
5 Executive Committee?

6 A. Yes, there were.

7 Q. Were there any discussions at any of those  
8 meetings concerning the use of the word "Redskins" or  
9 "Washington Redskins" by the football club?

10 A. Again, to the best of my recollection, within  
11 the context of the meeting, no.

12 Q. Now, you attend all of the meetings. Is that  
13 correct?

14 A. I do.

15 Q. And I believe you joined -- became executive  
16 director on April 1, 1994.

17 A. That is correct.

18 Q. During the period from April 1, 1994, to the  
19 end of 1994, were there any discussions held by the  
20 Executive Committee concerning the use of the words  
21 "Redskins" or "Washington Redskins" by the football  
-22 team?

1           A.     There was, to the best of my recollection,  
- 2     one discussion. Our organization helped to facilitate  
3     a meeting with President Clinton, tribal leaders from  
4     throughout the country, and within the context of that  
5     meeting President Gaiashkibos gave a speech to both  
6     members of the administration and to tribal leaders.

7           And it was after this very historic and  
8     significant meeting between the principals in the  
9     administration and tribal leaders from throughout the  
10    country, our board met to discuss a variety of issues.  
11    An issue important to President Gaiashkibos is cultural  
12    and religious rights. And I cannot remember which  
13    members of the Executive Committee, but some member  
14    congratulated him on the speech he gave.

15           And in response to their congratulations,  
16    there was a reference to a -- a specific reference to,  
17    as an example, the use of mascots, and any specific  
18    reference to the Washington Redskins football team by  
19    President Gaiashkibos. That was within a meeting. I  
20    cannot tell you if it is part -- I remember the  
21    conversation taking place. Whether it was actually  
-22   part of a record of a meeting that took place or simply



1 a discussion that would not be included in the record  
- 2 -- I do not recall seeing it in any minutes. I do,  
3 however, recall the discussion.

4 Q. And are any minutes kept of the meetings of  
5 the Executive Committee?

6 A. Yes, they are.

7 Q. And have you reviewed the minutes of the  
8 Executive Committee since April 1, 1994?

9 A. Yes, I have.

10 Q. And have there been any references in those  
11 minutes to the Washington Redskins or the Redskins  
12 football team?

13 A. No, there have not.

14 Q. Were there any references to the petition  
15 that was filed in this proceeding?

16 A. No, there has not been.

17 Q. Is there any reference to the resolutions  
18 that were adopted and marked here as 109 and 102 and  
19 57?

20 A. Within the context of the minutes, no. There  
21 is a possibility, however, because we gave -- a cursory  
-22 legislative update, that whenever the appropriate time

1 frame that Mr. Campbell was considering or did in fact  
- 2 introduce legislation relevant to one of the  
3 resolutions, I think it is the 109 number, that there  
4 may have been a simple report to the Executive  
5 Committee on the status of such legislation, and  
6 therein the reference would have occurred. However, it  
7 is not part of any minutes. But that may have happened  
8 in the routine delivery of an overview of pending  
9 legislative matters relevant to Indian issues and  
10 concerns.

11 Q. Did you find such writings anywhere?

12 A. No.

13 Q. Are there any documents reflecting meetings  
14 of the Executive Committee prior to 19 -- strike that.

15 Are there any records other than what you  
16 have testified to, concerning meetings of the Executive  
17 Committee after April 1, 1994, concerning the use of  
18 the name "Redskins" or "Washington Redskins"?

19 A. No.

20 Q. Are there any documents in your files  
21 concerning the use of the word "Washington Redskins,"  
-22 or "Redskins," in connection with any meetings of the

1 Executive Committee prior to March 31, 1994?

— 2 A. Not that I am aware of, other than such  
3 documents that you would have, the resolution, and some  
4 other historical documents.

5 Q. Documents that have already been produced; is  
6 that correct?

7 A. That is correct.

8 Q. Apart from Mr. Apodaca and the President  
9 Gaiashkibos, have you had any discussions with any  
10 other members of the Executive Committee concerning the  
11 resolutions 102, 109 or 57?

12 A. Only to the extent that I made the inquiry of  
13 Ms. Joseph, who played two roles, a member of the  
14 Executive Committee at one point and the interim  
15 executive director.

16 Q. Are you aware of the Inter-Tribal Council,  
17 Incorporated, Miami, Oklahoma?

18 A. The Inter-Tribal Council, Incorporated, of  
19 Miami, Oklahoma. There may be a series of inter-tribal  
20 organizations in Oklahoma.

21 Q. Fair enough. I just read the title of a  
—22 page. Have you ever heard of the Miami Tribe of

1 Oklahoma?

2 A. I believe I have. I am not familiar with  
3 tribal leadership, but in passing, that rings a bell.

4 Q. Are they a member of the NCAI?

5 A. I don't believe they are, but I could  
6 certainly check that.

7 Q. And how about the Modoc Tribe of Oklahoma?

8 A. I am not familiar with them, and again, I  
9 would have to check our membership records.

10 Q. Let me show you Exhibit No. 14 and ask if you  
11 would take a look at that document and tell me, are you  
12 familiar with any of the tribes listed on that  
13 document?

14 A. I have knowledge of the Ottawa Tribe of  
15 Oklahoma, but simply passing knowledge.

16 Q. Are they a member of the NCAI?

17 A. I don't know.

18 Q. Do you know any of the tribal leaders that  
19 are listed on that page? This signatures appears to be  
20 familiar and there was a board member of the National  
21 Congress of American Indians that, I believe, was from  
22 the Peoria Tribe of Oklahoma, as a board member who

1 resigned from the board of directors and I do not know  
2 his name but that signature appears to be familiar.

3 Q. And you are making reference then to the  
4 lower right-hand corner, the signature above the word,  
5 "Chief, Peoria Tribe of Oklahoma?

6 A. That is correct, and I believe he resigned  
7 from the National Congress of American Indians in 1993.  
8 I am not certain.

9 Q. And looking at this document, does this  
10 refresh your recollection of an Inter-Tribal Council,  
11 Incorporated, of these tribes in Oklahoma?

12 A. I am not familiar with that particular  
13 inter-tribal organization.

14 Q. Do you see an emblem in the upper left-hand  
15 corner here?

16 A. I do.

17 Q. Have you ever seen it before?

18 A. No, I have not.

19 Q. Do you have any information as to why the  
20 chief of the Peoria Tribe of Oklahoma resigned from the  
21 NCAI?

22 A. I do not.

1 Q. Have you ever been aware of the substance of  
- 2 this resolution by any of the tribes of Oklahoma  
3 concerning support for the use of the name "Redskins"  
4 by the Washington Redskins football team?

5 A. No, I have not.

6 Q. I would like to show you Exhibit No. 15 and  
7 ask you a few questions. Do you know of the existence  
8 of this Soboba tribe?

9 A. Yes, I am aware of their existence.

10 Q. And are you aware of their chief?

11 A. Mr. Salgado?

12 Q. Yes.

13 A. I believe I know who Mr. Salgado is.

14 Q. Are they members of the NCAI?

15 A. Actually, I do not think Soboba is a member  
16 of NCAI, but I would have to refresh my recollection.

17 Q. Could you provide me a list of the member  
18 tribes of the NCAI?

19 A. Absolutely.

20 Q. Are you aware of the substance of the  
21 position taken in this letter by the chief of the  
-22 Sobowa Tribe?

1 MR. NOTO: I am going to object to that  
- 2 question as to foundation.

3 MR. REINER: Surely, of course, I understand.

4 BY MR. REINER:

5 Q. Have you ever seen any writings concerning a  
6 position of the Soboba Tribe concerning the use of the  
7 name "Washington Redskins" or Redskins?

8 A. No, I have not.

9 Q. Have you ever seen this letter before?

10 A. No, I have not.

11 Q. Are you familiar with the Seminole Nation of  
12 Oklahoma?

13 A. Yes, I am.

14 Q. Are they members of the NCAI?

15 A. I believe they are not.

16 Q. Were they at one time?

17 A. I believe they may have been. I will tell  
18 you, we have been doing a big membership drive and we  
19 have actually been recruiting tribes in Oklahoma to be  
20 members of NCAI. I can't tell you whether Seminole is  
21 or is not.

-22 Q. Do you know Jerry G. Haney, the principal

1 chief?

2 A. I know who Mr. Haney is.

3 Q. Have you met him?

4 A. Yes.

5 Q. Have you ever discussed with him the position  
6 of their tribe concerning the use of the name  
7 "Washington Redskins" or "Redskins"?

8 A. No, I have not.

9 Q. Have you ever seen a copy of this, Exhibit  
10 59?

11 A. No.

12 Q. Have you ever seen any other writings  
13 concerning the position of their tribe with respect to  
14 the use of the name "Redskins" or "Washington Redskins"  
15 by the football team?

16 A. No, I have not.

17 Q. Have you ever had any discussions with  
18 anybody on that subject?

19 A. No, I have not.

20 Q. Are you familiar with the Tulalip Tribes of  
21 Washington?

22 A. Yes.



1 Q. And do you know Stanley G. Jones, Sr., the  
- 2 chairman of the board of directors?

3 A. Yes, I do.

4 Q. And have you met him?

5 A. Yes, I have.

6 Q. I would like to have you take a look at  
7 Exhibit No. 60 and ask you if you have ever seen a copy  
8 of this letter before?

9 A. No, I have not.

10 Q. Did you ever discuss with the gentleman that  
11 is the chief of the tribe the substance of the letter  
12 you have before you?

13 A. No, I have not.

14 Q. Ever have any discussions with him about the  
15 use of the name "Redskins" or "Washington Redskins" by  
16 the football team?

17 A. No, I have not.

18 Q. Have you seen any writings concerning the  
19 position of the Tulalip Tribes on that subject?

20 A. No, I have not.

21 Q. Are the Tulalip Tribes of Washington members  
- 22 of NCAI?

1 A. I believe they are, but that would need to be  
- 2 confirmed by our membership records.

3 Q. Are you familiar with the Miami Tribe of  
4 Oklahoma?

5 A. As I said, I am aware of the existence of the  
6 Miami Tribe, but that is the extent of my knowledge.

7 Q. Do you know a Floyd E. Leonard, by any  
8 chance?

9 A. I do not.

10 Q. Do you have any information concerning the  
11 position that that tribe takes concerning the use of  
12 the word "Redskins" by the Washington Redskins football  
13 team?

14 A. No.

15 Q. Have you ever seen this letter before, that  
16 has been marked as Exhibit 61?

17 A. No, I have not.

18 Q. Are you familiar with the Choctaw Nation of  
19 Oklahoma?

20 A. Yes, I am.

21 Q. Are they members of NCAI?

-22 A. I believe they are currently members of NCAI.

1 Q. Do you know Hollis E. Roberts, the chief of  
- 2 the Choctaw Nation?

3 A. I do know him.

4 Q. Have you ever met him?

5 A. Yes, I have.

6 Q. Have you ever had any discussions with him  
7 concerning the use of the word "Redskins" or  
8 "Washington Redskins"?

9 A. No, I have not.

10 Q. Have you ever had discussions with him about  
11 the use of any sports team utilizing the name --

12 A. No, I have not --

13 Q. Of any Indians or any mascots that have an  
14 Indian motif?

15 A. No.

16 Q. Where did you meet Chief Roberts?

17 A. I met Chief Roberts here in Washington, D.C.  
18 He is the chief of a very -- a very good friend of mine  
19 is a member of a Choctaw tribe and I think in 1991 was  
20 the first time I met Mr. Roberts and it was simply an  
21 introduction. He, however, has been chief of the  
-22 Choctaw for many, many years. So his name is known as

1 a tribal leader.

2 Q. Do you know Merna L. Lewis, the vice  
3 president of the Pima-Maricopa?

4 A. Is it the Salt River Pima-Maricopa?

5 Q. Salt River, yes.

6 A. I do not know her well. I know who she is.

7 Q. Is the Pima-Maricopa community a member of  
8 the NCAI?

9 A. Yes, they are.

10 Q. And have you ever had any discussions with  
11 Merna Lewis about the tribe's position with respect to  
12 the use of the word "Redskins" by the Washington  
13 Redskins football team?

14 A. No, I have not.

15 Q. Have you had any discussions with anybody  
16 from the Pima-Maricopa community?

17 A. Yes. I had one brief discussion with the  
18 leader of the Salt River tribe, Mr. Ivan Macum. It  
19 would be within the context of the Executive Council  
20 meeting that took place in Washington, D.C., in  
21 February of 1994, a very brief discussion about a  
-22 number of issues, and as I recall, there was some

1 reference to the use of the word "Redskins," within the  
- 2 context of the Washington Redskins football team, with  
3 Mr. Macum who was then and is currently the chairman or  
4 president, if you will, of Salt River.

5 Q. And I would like to show you Exhibit No. 73  
6 and have you, have you seen that letter before?

7 A. No, I have not.

8 Q. Did you ever have any discussions with  
9 anybody about the substance of this letter?

10 A. No, I have not.

11 Q. Are you familiar with the Eastern Band of  
12 Cherokee Indians?

13 A. Yes.

14 Q. Do you know Jonathan L. Taylor, principal  
15 chief?

16 A. I did not know Mr. Taylor personally,  
17 although I had been introduced to him, simple  
18 introduction.

19 Q. I would like to show you Exhibit No. 41 and  
20 ask you if you ever had any discussions with Mr. Taylor  
21 about the use of Redskins or Washington Redskins  
-22 football team?

1 A. No.

2 Q. Have you ever seen this exhibit which has  
3 been marked as Exhibit 41?

4 A. No, I have not.

5 Q. I would like to refer your attention to the  
6 bottom of the page where it says "Tribal Council  
7 members." Have you ever met any of the persons listed  
8 on this page as Tribal Council members?

9 A. No, I have not.

10 Q. Have you ever heard of the National American  
11 Indian Council?

12 A. No. I have heard of the National American  
13 Indian Council on Aging, but I have never heard of the  
14 National American Indian Council.

15 Q. Have you ever heard of a Lee Ann Tall Bear?

16 A. I have heard her name although I do not know  
17 Ms. Tall Bear.

18 Q. I would like to show you a letter marked  
19 Exhibit 35 and ask you whether or not you ever had any  
20 -- if you recognize that letter. Have you ever seen  
21 it?

22 A. No.

1 Q. Have you ever had any discussions with  
2 anybody at the National American Indian Council  
3 concerning the use of "Washington Redskins" or the  
4 "Redskins" name for the football team?

5 A. No.

6 Q. Have you ever had any discussions with  
7 anybody from that organization on any subject?

8 A. I am not aware of the organization, so within  
9 the context of the organization, to the best of my  
10 knowledge I have had no such discussions.

11 Q. Now, have you ever met Suzan Shown Harjo?

12 A. Yes, I have.

13 Q. And when was the first time you met her?

14 A. The first time I met Susan was in 1984. I  
15 was working -- I believe it was '84. Could have been  
16 '83. To the best of my knowledge it was '84. I was  
17 working as an intern for then-congressman from the  
18 State of North Dakota, Byron Dorgan, and it was as an  
19 intern in his office that I first met Ms. Harjo.

20 Q. Did you ever discuss with her the issue of  
21 the use of the name "Washington Redskins" or "Redskins"  
22 for the football team prior to your becoming executive

1 director of the NCAI?

- 2 A. No, I have not.

3 Q. Have you discussed the use of the name  
4 "Redskins" or "Washington Redskins" for the football  
5 team with Ms. Harjo since becoming executive director?

6 A. No, I have not.

7 Q. Do you know -- strike that.

8 I understand you know Raymond Apodaca.

9 A. That is correct.

10 Q. At any time prior to your becoming executive  
11 director, did you ever discuss with Mr. Apodaca the use  
12 of the word "Redskins" or "Washington Redskins" for the  
13 football team?

14 MR. NOTO: I am going to object to that  
15 question as going beyond the scope of the subpoena, but  
16 I am not going to instruct her not to answer.

17 THE WITNESS: As I shared with you, Mr.  
18 Apodaca was the religious freedom coordinator and we  
19 had overlap time in the office and there were general  
20 discussions about numerous issues. There may have been  
21 some discussions about the mascot issue, certainly one  
-22 that Mr. Apodaca felt strongly about. I do not recall,



1       however, conversations between he and I about the use  
- 2       of the word "Redskins."

3               Q.     And since the filing -- strike that.

4               Since you have become executive director,  
5       have you had any discussions with him about the use of  
6       the name "Redskins" or "Washington Redskins" by the  
7       football team?

8               A.     No.

9               Q.     Do you know Vine Deloria, Jr.?

10              A.     I am aware of who Mr. Deloria is, yes.

11              Q.     And did you ever have any discussions with  
12       him about the petition that was filed in this  
13       proceeding?

14              A.     No, I have not.

15              Q.     Have you ever had any -- shared any -- strike  
16       that.

17              Have you ever sent any writings to him  
18       concerning the petition that was filed in this  
19       proceeding?

20              A.     I do not believe so, no.

21              Q.     Have you ever received any writings from him  
-22       concerning the petition that was filed in this

1 proceeding?

2 A. I personally have not, and to the best of my  
3 knowledge there is nothing that exists within the  
4 organization at this time, as well.

5 Q. Do you know Norbert S. Hill, Jr.?

6 A. I certainly know who Mr. Hill is, yes.

7 Q. Have you ever met him?

8 A. I have been introduced to Mr. Hill, yes.

9 Q. And when was the first time you were  
10 introduced to him?

11 A. I would say, sometime in the mid 1980s.

12 Q. And prior to the filing of the petition, did  
13 you ever have any discussions with Mr. Hill concerning  
14 the use of the name "Redskins" or "Washington Redskins"  
15 football team?

16 MR. NOTO: I am going to object to that as  
17 going beyond the scope of the subpoena.

18 THE WITNESS: No, sir.

19 BY MR. REINER:

20 Q. Since you have become executive director,  
21 have you had any discussions with him concerning the  
-22 use of the name "Redskins" or "Washington Redskins" by

1 the football team?

- 2 A. No.

3 Q. Have you sent any writings to him on this  
4 subject?

5 A. No.

6 Q. Have you received any writings from him on  
7 this subject?

8 A. No.

9 Q. Do you know Mateo Romero?

10 A. I do not.

11 Q. Have you had any communications with him at  
12 all concerning the petition that was filed in this  
13 proceeding?

14 A. No.

15 Q. Do you know William A. Means?

16 A. I know who Mr. Means is, yes.

17 Q. Have you ever met him?

18 A. No, I haven't.

19 Q. Have you ever had any writings from him  
20 concerning the petition that was filed in this  
21 proceeding?

-22 A. None that I am aware of.

1 Q. And have you ever written to him?

— 2 A. No, I have not.

3 Q. Do you know a Manley A. Begay, Jr.?

4 A. Yes, I do.

5 Q. Have you ever met him?

6 A. Yes, I believe we have been introduced as  
7 well.

8 Q. And have you ever had any discussions with  
9 him concerning the petition that was filed in this  
10 proceeding?

11 A. No.

12 Q. Have you ever sent him any writings  
13 concerning the petition that was filed in this  
14 proceeding?

15 A. No.

16 Q. Have you ever received any from him?

17 A. Not that I am aware of, no.

18 Q. Do you know if Mr. Begay is a member of the  
19 NCAI?

20 A. I do not.

21 Q. Do you know if Mr. Means is?

—22 A. I believe Mr. Means is an individual member

1 but, again, I would have to refer to our membership  
- 2 records.

3 Q. Do you know if Mr. Hill is?

4 A. I do not know if Mr. Hill is.

5 Q. And Mr. Deloria?

6 A. Again, I do not know -- actually, I take that  
7 back. Yes, Mr. Deloria is a lifetime member of the  
8 organization.

9 Q. Do you know Mr. Stephen Baird?

10 MR. NOTO: I am going to instruct the witness  
11 to answer "yes" or "no."

12 THE WITNESS: No.

13 BY MR. REINER:

14 Q. I would like to show you a picture of Exhibit  
15 No. 29 and ask you if you are familiar with that book  
16 that was written by Mr. Deloria?

17 A. I am familiar with the book. I have seen the  
18 book. I have not read it.

19 Q. Does the NCAI have a copy of that book in  
20 their files?

21 A. No, we do not have a copy of this book in our  
-22 files.

1 Q. Do you have copies of books in your files by  
2 Mr. Deloria?

3 A. I would have to look and make sure I am not  
4 confusing my own collection with our library, and, yes,  
5 there may be one book of Mr. Deloria's that are in our  
6 library or in my home library.

7 Q. And have you seen this cover before?

8 A. Yes, I have.

9 Q. Can you identify the person that is depicted  
10 on that cover?

11 A. I cannot.

12 MR. REINER: Let's take a five-minute break.  
13 I may be able to wrap this up pretty quickly.

14 (Discussion off the record.)

15 BY MR. REINER:

16 Q. I only have a few more questions, but I  
17 understand you wanted to clarify something you  
18 testified to before.

19 A. Yes.

20 Q. What is that?

21 A. That is in reference to a signature -- I  
22 referred to a signature that looked familiar to me and

1 I have since recalled with a bit more clarity the  
2 context in which that signature looked familiar. I  
3 believe the name is Don Giles and Mr. Giles is in fact  
4 -- was in fact a member of the NCAI board of directors.  
5 And he then also resigned as a member of the board of  
6 directors and he, I believe, was part of the board that  
7 I inherited when I came in midterm in April of 1994.  
8 And as I recall, his resignation occurred very shortly  
9 after I was the -- appointed executive director.

10 Q. Why don't I show you Exhibit No. 14. Are you  
11 referring to the signature on the lower right-hand  
12 page, where the last name appears to be Giles?

13 A. Yes.

14 Q. Is the Morning Star Institute, or as it is  
15 sometimes called the Morning Star Foundation, a member  
16 of the NCAI?

17 A. I do not believe that Morning Star is an  
18 associate member of NCAI. I would have to consult our  
19 records. I do not believe, however, that it is.

20 Q. And have you talked to any director of the  
21 Morning Star Institute, or what is sometimes called  
22 Foundation, other than Susan Harjo concerning the use

1 of the word "Washington Redskins" or "Redskins" by the  
- 2 football team?

3 A. No, I have not.

4 Q. Do you know any of the other directors of the  
5 Morning Star Institute?

6 A. I do not.

7 Q. Have you ever attended any meetings located  
8 at the Morning Star Institute?

9 A. No, I have not. I will clarify. I am aware  
10 of a staff person of the Morning Star Institute. I  
11 believe she is a staff person and her name is Gail  
12 Shehack and I have knowledge of who Ms. Shehack is but  
13 no relationship with her.

14 Q. Have you ever had any discussion with her  
15 about use of the word "Redskins" by the Washington  
16 football team.

17 Q. Did you ever visit their offices?

18 A. Could you tell me the location of their  
19 offices? I do not believe I have.

20 Q. 403 10th Street Southeast.

21 A. I have visited 403 10th Street Southeast,  
-22 because at least one portion of 403 10th Street is the



1 home of Susan Harjo. I have never been there for the  
- 2 purpose of discussing Morning Star business. It has  
3 all been personal.

4 Q. And Susan Harjo is a personal friend, then?

5 A. An acquaintance.

6 Q. During your visits there, have you reviewed  
7 any documents or materials relating to the use of the  
8 word "Redskins" or "Washington Redskins" by the  
9 Washington football team?

10 A. No.

11 Q. Have you ever discussed with Susan Harjo the  
12 use of "Redskins" or "Washington Redskins" by the  
13 football team?

14 A. No.

15 MR. NOTO: I am going to object to that as  
16 going beyond the scope of the subpoena.

17 BY MR. REINER:

18 Q. Do you have any present plans at the NCAI to  
19 inspect the documents held over in the storage area?

20 A. No.

21 Q. And is this a commercial warehouse that these  
-22 documents are stored in?

1 A. It is my understanding that it is.

2 Q. At the present time I want to reserve my  
3 right to seek discovery of documents at the warehouse.  
4 I am not demanding production at the present time, but  
5 am reserving my rights to make such a demand after I  
6 read the text here and see what the deposition looks  
7 like.

8 Other than that, thank you very much.

9 (Whereupon, at 2:40 p.m., the taking of the  
10 deposition was concluded.)

11 (Signature not waived.)

12 - - -

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## CERTIFICATE OF DEPONENT

I have read the foregoing 116 pages, which  
contain the correct transcript of the answers made by  
me to the questions therein recorded.

\_\_\_\_\_  
JOANN CHASE

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
\_\_\_\_\_

My commission expires: \_\_\_\_\_

***CERTIFICATE OF NOTARY PUBLIC***

I, CATHY JARDIM, the officer before whom the foregoing deposition was taken, do hereby testify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me stenographically and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by and of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto nor financially or otherwise interested in the outcome of the action.

  
CATHY JARDIM

Notary Public in and for  
the District of Columbia

My commission expires: July 31, 1997

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 1,606,810 (REDSKINETTES)  
Registered July 17, 1990,  
Registration No. 1,343,442 (SKINS)  
Registered June 18, 1985,  
Registration No. 1,085,092 (REDSKINS)  
Registered February 7, 1978,  
Registration No. 987,127 (THE REDSKINS & DESIGN)  
Registered June 25, 1974,  
Registration No. 986,668 (WASHINGTON REDSKINS & DESIGN)  
Registered June 18, 1974,  
Registration No. 978,824 (WASHINGTON REDSKINS)  
Registered February 12, 1974,  
and Registration No. 836,122 (THE REDSKINS - STYLIZED LETTERS)  
Registered September 26, 1967

Suzan Shown Harjo,	)	
Raymond D. Apodaca,	)	
Vine Deloria, Jr.,	)	
Norbert S. Hill, Jr.,	)	
Mateo Romero,	)	
William A. Means, and	)	
Manley A. Begay, Jr.,	)	
	)	
Petitioners,	)	Cancellation No. 21,069
	)	
v.	)	
	)	
Pro-Football, Inc.,	)	
	)	
Respondent.	)	

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**DISCOVERY DEPOSITION TRANSCRIPTS FOR  
PETITIONERS' NOTICE OF RELIANCE (NR3)  
DEPOSITION TRANSCRIPTS VD 1 - NH 2  
VOLUME 2**

---

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 1,606,810 (REDSKINETTES)  
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v. )  
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Respondent. )  
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Cancellation No. 21,069

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**DISCOVERY DEPOSITION TRANSCRIPTS FOR  
PETITIONERS' NOTICE OF RELIANCE (NR3)  
DEPOSITION TRANSCRIPTS WM – IR 1  
VOLUME 3**

---

GN 1: Nunberg  
12/17/96

1 UNITED STATES PATENT AND TRADEMARK OFFICE  
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
3

4 SUZAN SHOWN HARJO, RAYMOND D. )  
5 APODACA, VINE DELORIA, JR., )  
6 NORBERT S. HILL, JR., MATEO )  
7 ROMERO, WILLIAM A. MEANS, )  
8 et al., )

9 Petitioners, )

10 vs. )

11 PRO-FOOTBALL, INC., )

12 Respondent. )  
13 -----

Cancellation

No. 21,069

Pages 1 - 225

CERTIFIED COPY

14 DEPOSITION OF:

15 GEOFFREY D. NUNBERG

16 TUESDAY, DECEMBER 17, 1996

17 9:20 A.M.

18

19

20

21

22

23 Reported by:

24 SHARON TRUJILLO

25 CSR No. 6120

TEARNEY & TEARNEY

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TEARNEY & TEARNEY 1-800-752-5178



1 Deposition of GEOFFREY D. NUNBERG, the witness,  
2 taken on behalf of the Respondent, on TUESDAY,  
3 DECEMBER 17, 1996, 9:20 A.M., at the offices of  
4 LANDELS, RIPLEY & DIAMOND, LLP, 350 The  
5 Embarcadero, Sixth Floor, San Francisco,  
6 California 94111, before me, SHARON TRUJILLO, CSR  
7 No. 6120.

8

9 APPEARANCES OF COUNSEL

10

11 FOR PETITIONERS:

12 DORSEY & WHITNEY, LLP  
13 BY MICHAEL A. LINDSAY, ESQ.  
14 Pillsbury Center South  
15 220 South Sixth Street  
16 Minneapolis, Minnesota 55402-1498  
17 (612) 340-7819

18

19 FOR RESPONDENT:

20 WHITE & CASE  
21 BY JOHN PAUL REINER, ESQ.  
22 1150 Avenue of the Americas  
23 New York, New York 10036-2787  
24 (212) 819-8200

25

1 SAN FRANCISCO, CALIFORNIA; TUES., DEC. 17, 1996;  
2 9:20 A.M.

3  
4 GEOFFREY D. NUNBERG,  
5 having been first duly sworn,  
6 was examined and testified as  
7 follows:

8  
9 EXAMINATION

10  
11 BY MR. REINER:

12 Q. Would you state your name and address  
13 for the record, please.

14 A. Geoffrey, G-e-o-f-f-r-e-y, Nunberg,  
15 N-u-n-b-e-r-g, 3527 21st Street, San Francisco,  
16 94114.

17 Q. Do you have a copy of the subpoena I  
18 served upon you?

19 A. Yes.

20 Q. Is this a copy of the same?

21 A. Yes.

22 Q. Would you take a look at the  
23 attachments and make sure?

24 A. Yes.

25 MR. REINER: Could we have this

1 marked, I think, Nunberg Exhibit No. 1, for  
2 identification.

3 (The document referred to  
4 was marked as Nunberg  
5 Exhibit 1 for identification,  
6 and attached to and made a part  
7 of this deposition.)

8 BY MR. REINER:

9 Q. Have you ever had your deposition  
10 taken before, Mr. Nunberg?

11 A. Yes.

12 Q. You are familiar -- I'll be asking you  
13 a series of questions, and you'll be responding  
14 to the best of your ability. Are you feeling  
15 okay?

16 A. Yes.

17 Q. I notice you're wearing glasses. You  
18 usually wear glasses?

19 A. Yes.

20 Q. Now, this subpoena that has been  
21 marked Exhibit No. 1 calls for the production of  
22 certain documents. Do you have the documents  
23 that are called for?

24 MR. LINDSAY: If I could add one other  
25 preface, Mr. Nunberg. You began your answer

1 before Mr. Reiner completed his question, and for  
2 the court reporter, it would be good if you  
3 paused before you answer the question.

4 BY MR. REINER:

5 Q. I'll try to follow the same  
6 instruction. The tendency is to talk too fast,  
7 as we do in normal conversation, but we'll try.

8 A. Yeah.

9 Q. Are there any other documents which  
10 you looked at in preparation for your deposition  
11 today, other than those which you have just  
12 produced?

13 A. Other than dictionaries and just  
14 ordinary research materials.

15 Q. When you say, ordinary research  
16 materials, what are you referring to?

17 A. Things like dictionaries and  
18 encyclopedias, some of which are quoted here. If  
19 there was a quote, I didn't bring in the  
20 encyclopedia.

21 Q. Any computer program or anything from  
22 a computer?

23 A. Yes, there was on-line databases, but  
24 I didn't download. I just consulted.

25 Q. Would you identify the databases you

1 looked at?

2 A. I looked at the Dialogue -- several of  
3 the Dialogue databases. It's now Knight-Rider  
4 Information Services. Various newspaper and  
5 magazine databases.

6 Q. Can you identify specifically --

7 A. It's identified, I think, in one of  
8 those disclosures. There's a paper database that  
9 contains the records of 54 newspapers. There's  
10 Mag Text. There's magazine databases that  
11 includes the records of a number of magazines. I  
12 think that was all. If there were others,  
13 they're indicated here.

14 Q. Did any of those databases go back for  
15 a period of time prior to 1985?

16 A. Yes.

17 Q. How far?

18 A. The papers' databases go back to the  
19 beginning of the '80s. The magazine database, I  
20 don't know when -- it would be in there. It  
21 would be around 19 -- it's not earlier than 1975.

22 Q. Did you look at any database or any  
23 information source dated prior to 1982?

24 A. Any electronic database?

25 Q. Yes.

1 MR. LINDSAY: Objection. Asked and  
2 answered, to the extent the witness has already  
3 stated the time of the Mag database.

4 BY MR. REINER:

5 Q. Anything else?

6 A. Anything else with regard to  
7 electronic databases?

8 Q. Yes.

9 A. No.

10 Q. Any other -- any written materials  
11 that you looked at that had information and data  
12 which you reviewed prior -- dated prior to 1982?

13 MR. LINDSAY: In preparation for this  
14 deposition?

15 MR. REINER: In preparation for this  
16 deposition, for any work that you did with  
17 respect to the petition which has been filed in  
18 this proceeding.

19 BY THE WITNESS:

20 A. That has not already been produced  
21 here?

22 BY MR. REINER:

23 Q. Correct, sir.

24 A. No. As I say, other than dictionaries  
25 and usage books and standard reference works that

1 I have.

2 Q. Can you give me the names of the  
3 standard reference works, dictionaries, and other  
4 written materials which you looked at?

5 A. I looked at a number of dictionaries,  
6 variation editions of the American Heritage,  
7 Merriam Webster's, Webster's New World, the  
8 Oxford English Dictionary. Others. I'm not  
9 promising that's a full list. The Encyclopedia  
10 Britannia. Other encyclopedia articles. Work of  
11 that nature.

12 Q. And in terms of years of each of those  
13 editions, were any of them prior to 1982?

14 A. Yes.

15 Q. Which ones?

16 A. The OED, Oxford English Dictionary.  
17 The first edition began to appear around 1880 and  
18 was finally published in 1926. The 11th  
19 Britannica appeared in 1911, 12, 13, and 14. In  
20 that period.

21 Webster's. Merriam Webster's Second  
22 appeared in 1935. To make this short, I looked  
23 at a lot of dictionaries and encyclopedias  
24 published between 1880 and the present.

25 Q. To the best of your recollection, any

1 other documents that you looked at, other than  
2 what has been produced here and other than what  
3 you have just described, to the best of your  
4 recollection?

5 MR. LINDSAY: Counsel, you've asked  
6 about documents, and the witness has reminded me  
7 that we have disclosed the existence of movies.  
8 I don't know whether you are asking about those  
9 or not.

10 MR. REINER: Not yet. I'm trying to  
11 be specific, and right now, I'm asking about  
12 written documents.

13 MR. LINDSAY: I think some of the  
14 materials related to those movies, but may  
15 themselves be written documents.

16 MR. REINER: Which he reviewed?

17 MR. LINDSAY: I don't know. I just  
18 wanted to make sure that you ask him --

19 BY THE WITNESS:

20 A. Other than the various databases,  
21 magazines, newspapers dating back to the 1880s,  
22 which are either indicated in here or disclosed  
23 or furnished here, I can't think of anything.

24 BY MR. REINER:

25 Q. Now, reference has been made to motion



1 pictures. Do you have any specific motion  
2 picture that you referred to in -- strike that.  
3 Do you have any motion pictures that you have  
4 looked at in preparation for this deposition?

5 A. Yes.

6 Q. What is that?

7 MR. LINDSAY: Counsel, specifically in  
8 preparation for this deposition?

9 MR. REINER: I'm breaking it in two.

10 MR. LINDSAY: So you're now being  
11 asked not whether you reviewed anything in  
12 advance of this deposition, but specifically in  
13 preparation for this deposition.

14 BY THE WITNESS:

15 A. That extends to -- what's the scope of  
16 preparation?

17 BY MR. REINER:

18 Q. Within the last month.

19 A. No.

20 Q. All right. Now, did you look at any  
21 motion pictures in preparation for anything to do  
22 with the petition that was filed in this action?

23 A. Yes.

24 Q. What was that, please?

25 A. I looked at a number of motion

1 pictures, or had a research assistant look at a  
2 number of motion pictures, looking for instances  
3 of the word "redskins" as it might have been used  
4 in American movies from 1920 to the present day.

5 Q. What was the source of the information  
6 for selecting the pictures that were reviewed?

7 A. Some of it was just what I remembered.  
8 Some of it from standard movie databases, list of  
9 movies. I received a list from Steve Baird of  
10 Dorsey & Whitney, B-a-i-r-d, of films containing  
11 "redskin" in the title. There is a British  
12 history of the western that I believe the  
13 research assistant consulted in the course of  
14 looking for these movies, and word of mouth.

15 Q. Do you have a list of movies that were  
16 looked at?

17 A. I have no single list of movies that  
18 were looked at.

19 Q. Do you have any list of movies that  
20 were looked at?

21 A. I have a list of movies that contain  
22 tokens of the word "redskin."

23 Q. Where is that?

24 A. That's in here (indicating).

25 Q. That's the materials you provided?

1 A. Yes.

2 Q. Anything else?

3 MR. LINDSAY: Other than the report

4 itself, which does list some movies?

5 MR. REINER: Yes.

6 BY THE WITNESS:

7 A. No.

8 BY MR. REINER:

9 Q. You mentioned a research assistant.

10 Who was that person?

11 A. That's a woman named -- I'm sorry. It

12 will come to me.

13 MR. REINER: Leave a space in the

14 transcript.

15 BY THE WITNESS:

16 A. She's a graduate student at Berkeley,

17 film, and was engaged to help with this part of

18 the project.

19 BY MR. REINER:

20 Q. When you say engaged, did you hire

21 her?

22 A. Yes.

23 Q. Did you pay her?

24 MR. LINDSAY: Are you asking whether

25 she was paid?

1 BY THE WITNESS:

2 A. Did I pay her?

3 BY MR. REINER:

4 Q. Did you pay her?

5 A. No.

6 Q. Do you know if anybody else paid her?

7 A. I believe that she received a check  
8 from Dorsey & Whitney. I don't know whose money  
9 that was.

10 Q. Did you give this person -- you  
11 remember the name now?

12 A. Courtney, C-o-u-r-t-n-e-y. Susan  
13 Courtney.

14 Q. Was she directly retained by you or by  
15 Dorsey & Whitney, to your knowledge?

16 A. By me.

17 Q. Who recommended this person?

18 A. She was recommended by a woman I know  
19 named Carol Clover, C-l-o-v-e-r, in the Rhetoric  
20 and Films Departments in U.C. Berkeley.

21 Q. Did you have any discussions with this  
22 person in person, Susan Courtney; did you have a  
23 discussion with her in person?

24 A. Yes, one.

25 Q. Where did that take place?

1           A.    At my office at the Xerox Palo Alto  
2    Research Center.

3           Q.    And what was the substance of your  
4    discussions with her?

5           A.    That was fairly late in the process,  
6    because we had communicated via telephone prior  
7    to that.

8           Q.    First, tell me what you -- what the  
9    nature of the substance of the communication was  
10   when you met her in person.

11          A.    At that point she had assembled a  
12   number of films that contained token instances of  
13   the word "redskin." She brought them down and we  
14   went into an editing room; with the help of a  
15   technical person, put together this video.

16          Q.    Did you speak with this person on the  
17   telephone prior thereto?

18          A.    Yes, I did.

19                MR. LINDSAY: "This person" being  
20   Susan Courtney?

21                MR. REINER: Yes.

22          Q.    When was the first time you spoke with  
23   her?

24          A.    I would say November, December of '95,  
25   but I could be off on that.

1 Q. What was the substance of your initial  
2 conversation with her?

3 A. I told her that she had been  
4 recommended by Carol Clover. I described to her  
5 the matter involving this procedure, told her  
6 that I was interested in finding American movies  
7 that gave instances of the word "redskin" to show  
8 its use in movies, asked her if she would help in  
9 assembling those movies. She agreed.

10 Q. Was the word "disparage" ever used  
11 during your initial discussion with her in  
12 reference to the word "redskins"?

13 A. I don't recall.

14 Q. At any point in time did you discuss  
15 with her that her job was to locate references to  
16 the word "redskins" in a disparaging manner?

17 MR. LINDSAY: Objection to form.

18 You may answer the question.

19 BY THE WITNESS:

20 A. I honestly don't recall. She knew,  
21 certainly, that the matter had been brought  
22 because people objected to the use of "redskins,"  
23 by way of general background.

24 BY MR. REINER:

25 Q. Is that the reference point which she

1 was to use in looking at motion pictures?

2 MR. LINDSAY: Objection to form.

3 You may answer.

4 BY THE WITNESS:

5 A. I don't think I ever constrained her  
6 to finding tokens of the word that were used --  
7 let me use the word "tokens" to use instances.  
8 It's an English term. I'll try not to define  
9 instances of the word that were restricted to  
10 disparaging or offensive context.

11 BY MR. REINER:

12 Q. But she was aware of the nature of the  
13 proceedings; is that correct?

14 MR. LINDSAY: Objection. Foundation.

15 You may answer.

16 BY THE WITNESS:

17 A. I believe so, yes.

18 BY MR. REINER:

19 Q. Now, was any effort made by Susan  
20 Courtney to obtain the use of the word "redskins"  
21 and not referring to American Indian persons?

22 MR. LINDSAY: Objection. Form and  
23 foundation.

24 BY THE WITNESS:

25 A. Can you explain?

1 BY MR. REINER:

2 Q. Was any conversation held for her to  
3 attempt to find use of the word "redskin" or  
4 "redskins" in reference to an athletic team?

5 MR. LINDSAY: Objection. Form.

6 You may answer.

7 BY THE WITNESS:

8 A. No.

9 BY MR. REINER:

10 Q. Was the only reference made to the use  
11 of the word "redskins" in the context of American  
12 Indian persons?

13 MR. LINDSAY: Objection. Form.

14 You may answer.

15 THE WITNESS:

16 A. Yes.

17 BY MR. REINER:

18 Q. Have you done any research at all in  
19 the use of the word "redskins" in reference to  
20 athletic teams?

21 MR. LINDSAY: Objection. Form.

22 You may answer.

23 BY THE WITNESS:

24 A. Not as such.

25 BY MR. REINER:



1 Q. Do you have any scientific data upon  
2 which you would base an opinion concerning the  
3 use of the word "redskins" in reference to  
4 athletic teams?

5 MR. LINDSAY: Objection. Form.

6 You may answer.

7 BY THE WITNESS:

8 A. When I performed searches on the  
9 Dialogue databases, I looked for instances of the  
10 word "redskin." In the course of looking for  
11 those instances, I naturally encountered a number  
12 of instances of the word and its application to  
13 athletic teams, and potatoes and peaches. And in  
14 the course of analyzing those results was  
15 naturally led to analyze the uses as they  
16 referred to athletic teams as well.

17 BY MR. REINER:

18 Q. From your experience in looking at  
19 words and their meanings, does the context for  
20 the use of words have any effect upon the meaning  
21 of the word?

22 MR. LINDSAY: Objection. Vague and  
23 ambiguous.

24 You may answer.

25 THE WITNESS:

1           A.     That's a difficult question to answer  
2     the way it's phrased, but I will try.

3           The context has several effects on the  
4     way words are interpreted. In the first and the  
5     simplest, the context helps us to distinguish  
6     between the various uses between a completely  
7     ambiguous word. So if I heard an instance of the  
8     word bank, which is a purely fortuitious homonym  
9     between its use to refer to a financial  
10    institution and to refer to the side of a river,  
11    the context will help you to determine which of  
12    those was the intended sense.

13           In that sense, the context doesn't  
14    have an effect on the meaning. The meanings were  
15    there before, but it helps you to distinguish  
16    between them. In other cases, the context  
17    certainly shades the interpretation, whether in  
18    virtue of the words that accompany the instance  
19    of the use or the external situation of the use.

20   BY MR. REINER:

21           Q.     When you say "external," do you mean a  
22    point of reference?

23           A.     I don't know what a point of reference  
24    is.

25           Q.     When you are referring to a ball as an

1 object that a child plays with, that is a point  
2 of reference, isn't it?

3 A. Well, to take your example, if you use  
4 the word ball in a context of a discussion of the  
5 49ers and the Panthers, I'll assume it's  
6 something oblong and pointed at the ends. If you  
7 use it in the context of a discussion of the  
8 Chicago Bulls and the Warriors, I'll assume it's  
9 something round and rather large.

10 Q. Doesn't ball also mean a social event  
11 where people dance?

12 A. Right. In that case, I would say ball  
13 is homonymous; that there are two meanings -- one  
14 word, two different meanings. And in that case,  
15 we're back to the case of bank, where the context  
16 doesn't shade the meaning, but rather enables you  
17 to know what word is meant.

18 Q. When someone says, I had a ball,  
19 meaning I had a happy time, that's another use of  
20 the word ball?

21 A. Yes.

22 Q. So that words have different meaning  
23 and different connotations; is that right?

24 MR. LINDSAY: Objection. Form.

25 You may answer.

1 THE WITNESS:

2 A. Depending on what you mean by meaning,  
3 yes.

4 BY MR. REINER:

5 Q. Well, a ball that is used by a child  
6 to bounce is different than going to a social  
7 occasion when one dances; isn't that correct?

8 A. Yes. In that case, I would say  
9 they're wholly different meanings.

10 Q. All right. Now, you used the word  
11 "redskins" in relationship to a potato; is that  
12 correct?

13 A. Yes.

14 Q. And that's -- in the context of that  
15 use, that is different than the use of the word  
16 "redskins" for a Native American Indian person;  
17 is that correct?

18 A. Yes.

19 Q. Has a different meaning?

20 A. Yes.

21 Q. And similarly with peaches, that has a  
22 different meaning from the word "redskins" than  
23 with respect to a Native American Indian person?

24 A. Yes.

25 Q. Now, you produced some documents here.

1 The ordinary thing to do is to mark them for  
2 identification. Would you hand me these  
3 documents, and we'll just mark these?

4 MR. LINDSAY: Can we go off the  
5 record?

6 (Discussion held off the record.)

7 MR. REINER: I'll indicate on the  
8 record that I will look at these documents on the  
9 break, and then have you identify the ones I  
10 think should be marked, and then which ones I  
11 don't think necessarily should be marked.

12 Q. Now, there is a document that is  
13 entitled "Expert Disclosure for Geoffrey  
14 Nunberg." Do you see that document, sir?

15 A. Yes.

16 MR. REINER: Can we have this marked  
17 as Exhibit No. 2, please?

18 (The document referred to  
19 was marked as Nunberg  
20 Exhibit 2 for identification,  
21 and attached to and made a part  
22 of this deposition.)

23 BY MR. REINER:

24 Q. I'd like to show you Exhibit No. 2,  
25 and ask you if you recognize that document.

1 A. Yes, I do.

2 Q. Did you prepare it?

3 MR. LINDSAY: Objection. Form.

4 THE WITNESS:

5 A. By "prepare," you mean write, type --

6 BY MR. REINER:

7 Q. Yes.

8 A. No.

9 Q. You did not write this document; is

10 that correct?

11 MR. LINDSAY: Objection.

12 BY MR. REINER:

13 Q. Did you write this document?

14 MR. LINDSAY: Objection. Vague and

15 ambiguous.

16 BY THE WITNESS:

17 A. By "write," you mean type on my word

18 processor and physically produce this document?

19 BY MR. REINER:

20 Q. Yes.

21 A. No.

22 Q. Did anybody in your office do so?

23 A. No.

24 Q. Was this prepared by someone at the

25 firm of Dorsey & Whitney?

1           A.     Yes.

2                   MR. LINDSAY:  Objection.  Form.

3     BY MR. REINER:

4           Q.     Who prepared it, to your knowledge?

5                   MR. LINDSAY:  Foundation.

6     BY THE WITNESS:

7           A.     To my knowledge, it was Michael

8     Lindsay.

9     BY MR. REINER:

10          Q.     Was there any written document which

11     you prepared which was submitted to anyone at

12     Dorsey & Whitney setting forth the substance of

13     this document marked Exhibit No. 2?

14                  MR. LINDSAY:  Objection.  Form.

15                  You may answer.

16     BY THE WITNESS:

17          A.     No.

18     BY MR. REINER:

19          Q.     When was the first time that you saw

20     this document, or a copy of it?

21                  MR. LINDSAY:  Objection.  Form.

22     BY THE WITNESS:

23          A.     By "this document," you mean this very

24     version of this text?

25     BY MR. REINER:

1 Q. Exhibit No. 2; that's correct.

2 A. Sometime subsequent to its submission  
3 to -- in the process of disclosure; whenever that  
4 was. I can't remember the date.

5 Q. Was it in the last month?

6 A. No. It was sometime after June 10th,  
7 1996. In fact, it was between June 10th and July  
8 1st, 1996.

9 Q. Did you receive any documents that  
10 were drafts of this Exhibit No. 2 prior to June  
11 10th?

12 A. Yes.

13 Q. And did you put any writings on that  
14 document?

15 MR. LINDSAY: Now referring to the  
16 draft or drafts?

17 MR. REINER: The draft or drafts.

18 BY THE WITNESS:

19 A. I did make changes in the drafts,  
20 relatively minor changes. For the most part,  
21 editorial changes. And I honestly can't recall  
22 whether I submitted those by making changes on  
23 the draft and faxing it to Dorsey & Whitney or  
24 merely by telephone. I know Michael Lindsay and  
25 I had conversations about it, and I don't know



1 whether there was an additional fax.

2 BY MR. REINER:

3 Q. You have no copies of that -- do you  
4 have copies of that draft?

5 A. Not in my files, no.

6 Q. Was there more than one draft?

7 A. No.

8 Q. And you -- did you throw that document  
9 out?

10 A. It's possible.

11 Q. Well, do you have it presently in your  
12 files?

13 A. It's not presently in my files.

14 Q. You have no recollection of what you  
15 did -- do you have a recollection of what you did  
16 with it?

17 A. No.

18 Q. Do you have any recollection of what  
19 changes you made to the draft?

20 MR. LINDSAY: The record should  
21 reflect that the exhibit is no longer in front of  
22 the witness.

23 BY MR. REINER:

24 Q. Well, perhaps it will help you. Why  
25 don't you look at Exhibit No. 2, and would you

1 tell me what changes, if any, you made to the  
2 form of the document, Exhibit No. 2, before  
3 you --

4 A. For one thing, I remember that he  
5 spelled my name J-e-f-f-r-e-y, so I changed that.

6 I made minor editorial changes in the  
7 prefatory material that describes the field of  
8 linguistics and lexicography and what those  
9 people do.

10 Q. Do you recall what they were?

11 A. No. I do recall that I added the word  
12 lexicology to lexicography.

13 Q. Okay. Would you go on?

14 A. I honestly can't remember which parts  
15 of this were -- there were a series of  
16 conversations with Mr. Lindsay involving this  
17 material in which we went over it. And I  
18 honestly can't remember which of these matters  
19 were dealt with and in which of those  
20 conversations.

21 MR. REINER: The notice called for  
22 production of drafts. You may or may not have in  
23 your files -- I'm asking for the production of  
24 the document.

25 MR. LINDSAY: I have no draft.

1 MR. REINER: You have no draft?

2 MR. LINDSAY: That is correct.

3 BY MR. REINER:

4 Q. Did you make any copy of the document  
5 that was titled "Expert Disclosure for Geoffrey  
6 Nunberg" that you have retained in your file,  
7 which has been marked Exhibit No. 2?

8 A. Yes.

9 Q. Do you have it with you?

10 A. I have a copy of the document. I  
11 don't know if it's the one I have in my files or  
12 not.

13 There is --

14 MR. LINDSAY: Off the record.

15 (Discussion held off the record.)

16 BY MR. REINER:

17 Q. Did you have more than one copy of  
18 Exhibit No. 2?

19 A. Of Exhibit No. 2 being the -- this  
20 statement?

21 Q. Yes.

22 A. I was sent one --

23 MR. LINDSAY: We're now again talking  
24 about post --

25 THE WITNESS:

1           A.     Shortly after its submission, sometime  
2     in the period between June 15th, say, and July  
3     1st, when I left the country for a period. And  
4     then was sent another copy in the last couple of  
5     weeks, maybe two weeks ago, or something like  
6     that.

7     BY MR. REINER:

8           Q.     Did you make any copies of the first  
9     copy that was sent to you, of this Exhibit No. 2?

10          A.     Not to my recollection.

11          Q.     Did you write on that first copy of  
12     Exhibit No. 2?

13          A.     I can't recall. I may have -- I  
14     didn't write extensively on it. I wrote -- I  
15     mean, if I wrote at all, I didn't write  
16     extensively.

17          Q.     Where is that document now?

18          A.     I don't know. We had it yesterday.

19                 MR. LINDSAY: Actually, he's talking  
20     about the one --

21     BY MR. REINER:

22          Q.     No, the one you got in June.

23          A.     I guess at my home in my files. I  
24     mean, I do have a copy of this.

25          Q.     Do you have anything else at home in

1 your files relating to this proceeding?

2 A. I don't think anything that's not

3 here, other than I know I have another copy of

4 the expert statement from Barnhart and Butters

5 there.

6 Q. Did you use the Butters statement at

7 all in preparing for this deposition?

8 A. By "use" you mean --

9 Q. Read it.

10 A. Yes.

11 Q. Did you make any notes on it?

12 A. Did I -- when you say "notes," make

13 notes on it, you mean handwritten notes on it?

14 Q. Yes.

15 A. I don't think so. Maybe. I have it

16 here in my briefcase.

17 Q. Would you look, please.

18 A. On the basis of a quick glance, no.

19 Q. What about from Mr. Butters?

20 A. From Mr. Butters?

21 Q. Yes. Did you make any notes on any

22 documents related to Mr. Butters' report?

23 A. Again, these are physical notes on the

24 surface of the paper?

25 Q. Yes.

1           A.    No.

2           Q.    Did you make any notes, other than on

3   the surface of paper, concerning Mr. Butters --

4           MR. LINDSAY:  Objection to form.

5   THE WITNESS:

6           A.    By notes, you intend --

7   BY MR. REINER:

8           Q.    Any writing.

9           A.    Yes.

10          Q.    And you have them with you?

11          A.    One of the -- some of the remarks that

12   touch on the statistical numbers are in the --

13   one of the statements here.

14          Q.    Anything else?

15          A.    I sent notes to Mr. Lindsay about my

16   reaction to the remarks.

17          Q.    And did you keep copies?

18          A.    Yes.

19          Q.    Are they here before you?

20          A.    Yes, I have them.

21          Q.    Are they in that pile in front of you?

22          A.    No.

23          Q.    Where are they?

24          A.    I have them in my briefcase, and

25   Mr. Lindsay has a copy.

1 Q. Would you produce them, please?

2 MR. LINDSAY: Before we do that,  
3 Counsel, it seems to me that we are now at the  
4 area where the witness is commenting on, and  
5 specifically commenting to counsel in this  
6 matter. And as a rule, not as a testifying  
7 witness necessarily, but in his role as a  
8 consulting witness. And I am -- I want to make  
9 sure I understand what rules you're intending to  
10 follow, if you are calling for the production of  
11 that document, which is not itself the report of  
12 this witness, or a draft report of this witness.

13 BY MR. REINER:

14 Q. Was it used for any purpose in  
15 preparation for this deposition?

16 MR. LINDSAY: For preparation  
17 specifically for this deposition is the question.

18 BY THE WITNESS:

19 A. It being --

20 BY MR. REINER:

21 Q. Any document that you made notes about  
22 Mr. Butters' report.

23 A. And preparation for this deposition  
24 being in the last few weeks?

25 Q. The last month.

1 MR. LINDSAY: Well, specifically for  
2 this deposition, as opposed to some other aspect  
3 of these proceedings is the question he's now  
4 asking.

5 BY THE WITNESS:

6 A. No.

7 BY MR. REINER:

8 Q. Did you read it within the last month?

9 A. I've looked at it within the last  
10 month. I haven't read it through.

11 Q. When you say you've looked at it, what  
12 do you mean by that?

13 A. I mean, I brought it up and printed  
14 out a copy on my screen.

15 Q. Did you read that within the last  
16 week?

17 A. No.

18 Q. Did you read it within the last two  
19 weeks?

20 A. No.

21 Q. Last month?

22 MR. LINDSAY: Objection. Asked and  
23 answered.

24 BY MR. REINER:

25 Q. Well, last three weeks, then. Excuse



1 me.

2 A. No.

3 Q. So between the three weeks ago and  
4 four weeks ago you did read it, though; is that  
5 correct?

6 MR. LINDSAY: Objection.  
7 Mischaracterizes the witness's testimony.

8 BY THE WITNESS:

9 A. No.

10 BY MR. REINER:

11 Q. Did you look at it between three weeks  
12 and four weeks ago?

13 A. I brought it up on my screen, checked  
14 it was the right document, and printed it out.

15 Q. Did you read it?

16 A. I didn't read through it. I mean, did  
17 I look at it and see when it came out, yes, it is  
18 the right document, go through and making sure  
19 there were so many pages, yes. Did I read it,  
20 peruse it, no.

21 Q. Did you use it in any way in any  
22 comments made in preparation of Exhibit No. 2?

23 MR. LINDSAY: Could I have that back,  
24 please?

25 BY THE WITNESS:

1           A.     No.

2           MR. REINER: I still call for the  
3 production of the document.

4           MR. LINDSAY: I repeat my question.

5           MR. REINER: I want to use it for  
6 deposing this witness as an expert, which you  
7 hired and designated.

8           MR. LINDSAY: I understand that is the  
9 purpose of your inquiry, but I think you  
10 established there's no foundation for you to make  
11 the request.

12          MR. REINER: Are you declining to  
13 produce it?

14          MR. LINDSAY: I have asked you earlier  
15 whether there is some type of understanding that  
16 we should be reaching. You are now asking for  
17 production of a document which, as to the part of  
18 report of this witness, which was not a draft of  
19 the report, which has not been used to refresh  
20 the witness's recollection for this deposition,  
21 and as far as I can tell, and I invite you to  
22 correct me if I appear to be wrong, you have no  
23 legal basis for asking for that document. If  
24 there's legal basis, please tell me so that I can  
25 try to address that.

1 BY MR. REINER:

2 Q. I believe you testified that you did  
3 make some notations on a copy of this Exhibit No.  
4 2 which was sent to you in June; is that correct?

5 MR. LINDSAY: Objection.

6 Mischaracterization and asked and answered.

7 You may answer.

8 MR. REINER: I'll get a foundation.

9 Q. Did you make some writings on a copy  
10 of this document which --

11 A. I said I didn't recall whether -- I  
12 did make proposed changes in the document. I  
13 know many of those were proposed by telephone,  
14 and it's possible, I don't remember whether I  
15 also annotated the copy and faxed it. This was  
16 all done under enormous time pressure, as I  
17 recall, and there was lots of telephone --  
18 Mr. Lindsay was working all weekend, and we were  
19 on the phone Saturday and Sunday. I honestly  
20 don't recall.

21 Q. Had you read Mr. Barnhart's report  
22 prior to preparing the document which you have  
23 referred to as being on your screen and which you  
24 sent to Mr. Lindsay?

25 A. Yes.

1 Q. Was that used --

2 MR. LINDSAY: Excuse me, Counsel. If  
3 I've correctly understood the witness's answer,  
4 then I have incorrectly understood your question,  
5 because you established a while ago that that was  
6 a logical impossibility.

7 MR. REINER: No, the draft. He  
8 testified there was a draft in June.

9 MR. LINDSAY: But you were asking him  
10 about a document that you did not provide to me  
11 until after June 10. And so if I misheard you --

12 Could we have the question and answer  
13 back, please?

14 MR. REINER: I don't know when I  
15 provided you with that document. I'm just trying  
16 to get from this witness whether he had read the  
17 Barnhart document before making any comments with  
18 respect to the first draft that you got on the  
19 expert disclosure for Geoffrey Nunberg.

20 BY THE WITNESS:

21 A. Let me try and clarify, because  
22 there's some confusion about which documents  
23 we're talking about. There were two documents in  
24 whose preparation I was either -- I was involved.  
25 The first was this report, "Expert Disclosure for

1 Geoffrey Nunberg," which is Exhibit 2. That was  
2 prepared under circumstances that we described  
3 before. As I recall, the reports for  
4 Mr. Barnhart and Mr. Butters had been made, so no  
5 reference to those could have been included in  
6 this.

7 There was, subsequent to my receipt of  
8 those reports, also within this time frame, the  
9 second half of June 1996, a document that I sent  
10 to Mr. Lindsay in which I gave my reactions and  
11 suggested questions that might be asked of these  
12 witnesses, or difficulties with various things  
13 they said; that was made subsequent, obviously,  
14 to receiving both of those reports.

15 BY MR. REINER:

16 Q. Was there any document, either in  
17 draft form or as appears in Exhibit 2, in which  
18 you made any comments in writing concerning  
19 that -- concerning your opinion in this  
20 proceeding?

21 MR. LINDSAY: Could I have the  
22 question back, please?

23 (Record read as follows:

24 "Question: Was there any  
25 document, either in draft form

1 or as appears in Exhibit 2, in  
2 which you made any comments in  
3 writing concerning that --  
4 concerning your opinion in  
5 this proceeding?")

6 MR. LINDSAY: I'm going to object to  
7 that question for form. I know I do not  
8 understand the question.

9 Off the record for a moment.

10 (Discussion held off the record.)

11 BY MR. REINER:

12 Q. Is it correct that you saw a report by  
13 Mr. Barnhart?

14 A. Yes.

15 Q. Is it correct that you made your own  
16 comments in a computer program in relationship to  
17 that report from Mr. Barnhart?

18 A. Yes.

19 Q. Is it correct that you sent that on to  
20 the Dorsey & Whitney firm?

21 A. Yes.

22 Q. Did you use that report in any manner  
23 to form --

24 MR. LINDSAY: Before you complete  
25 that --

1 BY MR. REINER:

2 Q. -- of Barnhart in any manner in  
3 preparation to giving an opinion in this  
4 proceeding?

5 A. No.

6 MR. LINDSAY: Actually, Counsel, I  
7 think we do need to qualify that, because there  
8 is a document that is being produced today which  
9 is not a formal part of the prior report, but  
10 since the witness will in his -- I expect the  
11 witness in his direct at trial to render opinions  
12 on that subject, I am producing that report.  
13 Whether it is a comment on the Barnhart or  
14 Butters' report or both or neither, I don't know,  
15 but it is in the materials that are being  
16 produced today.

17 MR. REINER: Why don't you produce it  
18 right now?

19 MR. LINDSAY: Yes.

20 THE WITNESS:

21 A. When you say "proceedings," you're  
22 talking about today or the whole megillah?

23 BY MR. REINER:

24 Q. The whole megillah. The shooting  
25 match.

1 MR. LINDSAY: Let's go off again.

2 (Discussion held off the record.)

3 MR. REINER: May we have this marked  
4 as Exhibit No. 3, please?

5 (The document referred to  
6 was marked as Nunberg  
7 Exhibit 3 for identification,  
8 and attached to and made a part  
9 of this deposition.)

10 BY MR. REINER:

11 Q. This Exhibit No. 3 is a document  
12 prepared by you; is that correct?

13 A. I'm sorry?

14 Q. This exhibit, was that prepared by  
15 you?

16 A. Yes.

17 Q. Was it prepared by you in some  
18 database which you have in your office?

19 A. It was prepared by me in a word  
20 processing program that I have on my machine.

21 Q. And is it at your office?

22 A. I have machines at home and in the  
23 office.

24 Q. Is this the final version of what you  
25 prepared, as it appears in Exhibit No. 3?



1 MR. LINDSAY: Objection. Form.  
2 BY THE WITNESS:  
3 A. Yes.  
4 BY MR. REINER:  
5 Q. Were there any drafts?  
6 A. By drafts you mean printouts of --  
7 Q. Prior versions of this Exhibit No. 3  
8 that were changed as appears in Exhibit No. 3.  
9 A. No.  
10 Clarify. I wrote it as a program. I  
11 continued to make changes in it as I was writing  
12 it, but I made changes in the file. So that's  
13 the version in the file.  
14 Q. Did you send any prior versions of  
15 Exhibit No. 3 to the firm of Dorsey & Whitney?  
16 A. No.  
17 Q. Did you have any discussions with  
18 anybody on prior versions of this report, with  
19 anybody at the firm of Dorsey & Whitney?  
20 A. No.  
21 MR. LINDSAY: Objection. Form.  
22 BY MR. REINER:  
23 Q. Did you have any discussions with  
24 Susan Courtney about this document, document No.  
25 3?

1 MR. LINDSAY: Objection. Form.

2 BY THE WITNESS:

3 A. No.

4 BY MR. REINER:

5 Q. Did you have any discussions with  
6 Susan Courtney with respect to document No. 2?

7 MR. LINDSAY: Objection. Form.

8 Counsel, are you excluding the  
9 conversations that he's already testified to?

10 MR. REINER: I'm very specific about  
11 document No. 2.

12 MR. LINDSAY: Your question wasn't as  
13 I understood it, so I maintain the form of  
14 objection.

15 MR. REINER: Read it back, please.

16 (Record read as follows:

17 "Question: Did you have  
18 any discussions with Susan  
19 Courtney with respect to  
20 document No. 2?")

21 MR. LINDSAY: Objection. Form.

22 BY THE WITNESS:

23 A. No.

24 BY MR. REINER:

25 Q. Did you have any discussions with

1 Susan Courtney with respect to any prior versions  
2 of document No. 2?

3 MR. LINDSAY: Same objection.

4 BY THE WITNESS:

5 A. No.

6 BY MR. REINER:

7 Q. Did Susan Courtney give you any  
8 written materials that are not before you here  
9 today concerning the work that she did for you?

10 MR. LINDSAY: By "written materials,"  
11 Counsel, are you excluding movies themselves?

12 MR. REINER: No. Written materials  
13 are written materials, not movies.

14 BY THE WITNESS:

15 A. No.

16 BY MR. REINER:

17 Q. Did she render any -- pardon me. Did  
18 she give you any computer disks or things that  
19 were to be used in a computer program concerning  
20 the work that she did?

21 A. No.

22 Q. Did she give you anything but an oral  
23 report concerning the work that she did?

24 A. She produced a number of video  
25 cassettes that she had either rented, to which

1 she had transcribed bits of film which were used  
2 in the preparation of the compilation that we  
3 prepared.

4 Q. When you say "we prepared," who did  
5 the writing?

6 A. This was a cassette. I mean, there  
7 was no -- the compilation refers to a video  
8 cassette which contains fragments of movies in  
9 which the word "redskin" is used.

10 Q. Was the video cassette containing  
11 those sections of movies prepared from any full  
12 movie which you saw personally?

13 MR. LINDSAY: Objection. Vague.

14 BY THE WITNESS:

15 A. Let me see if I understand the  
16 question. You want to know whether there was  
17 some movie that I saw the whole of, some part of  
18 which has been excerpted in this cassette?

19 BY MR. REINER:

20 Q. Correct.

21 MR. LINDSAY: Objection. Vague.

22 BY THE WITNESS:

23 A. Yes.

24 BY MR. REINER:

25 Q. How many excerpts are included in this

1 video cassette which you prepared?

2 A. Seven, eight, nine. I can't remember.

3 Q. How many videos did she look at in  
4 order to select the excerpts that are in that  
5 video cassette?

6 MR. LINDSAY: Objection. Foundation.

7 BY THE WITNESS:

8 A. Perhaps 30 or 40, perhaps.

9 BY MR. REINER:

10 Q. Did she tell you which movies she  
11 looked at?

12 A. We discussed it, yes.

13 Q. Did she tell you which ones?

14 A. She told me the names of -- I  
15 suggested movies to her. I suggested at one  
16 point we should look at all the John Ford  
17 westerns, like "Fort Apache." And it turns out  
18 that the word "redskin" isn't used in any of the  
19 movies of John Ford, so there was a number of  
20 conversations of that sort. She also called me  
21 and said, I looked at this. It wasn't there. I  
22 looked at that, it was there. Whatever.

23 Q. Were there any movies that she looked  
24 at that were not included as excerpts in the  
25 report, other than the John Ford videos?

1 A. Yes.

2 Q. Who selected the films that were to go  
3 in this video, the -- strike that. Who selected  
4 the excerpts that were to go in this video?

5 A. She and I both did.

6 Q. Did she bring any excerpts with her  
7 that were not included?

8 A. No. The video contains, as best we've  
9 been able to determine, all of the movies that we  
10 found in which the word "redskin" was used, with  
11 one exception -- with two exceptions that are  
12 mentioned in my statement. We couldn't get ahold  
13 of "Northwest Passage" at the time, and there's  
14 one other movie mentioned in the statement, but  
15 we found no uses of "redskin" in movies that are  
16 not either in the compilation or in my statement.

17 Q. How many movies did you look at  
18 personally that were used in this video where  
19 excerpts were included?

20 MR. LINDSAY: Objection. Vague and  
21 ambiguous.

22 BY THE WITNESS:

23 A. When you say, did I look at  
24 personally, do you mean in the period during  
25 which I've been involved in this matter?

1 BY MR. REINER:

2 Q. Correct.

3 A. Three.

4 Q. Which ones?

5 A. I'm sorry. Are we talking about the  
6 movies that were actually used in the compilation  
7 or the other movies in which no tokens were  
8 found?

9 Q. The movies used in the compilation.  
10 How many did you look at?

11 MR. LINDSAY: Same objection.

12 BY THE WITNESS:

13 A. In that case, none. Again, there were  
14 movies looked at like, "Tell 'Em Willy Boy Was  
15 Here" that I had seen and knew, but I don't think  
16 I looked at them again during the period I was  
17 involved in this matter.

18 BY MR. REINER:

19 Q. Would it be correct then that all of  
20 the excerpts that appear in this video were  
21 selected by Susan Courtney?

22 MR. LINDSAY: Objection. Vague and  
23 ambiguous and argumentative; and asked and  
24 answered.

25 You may answer.

1 BY THE WITNESS:

2 A. By "selected," you mean located?

3 BY MR. REINER:

4 Q. Yes.

5 A. Physically located?

6 Q. Yes.

7 A. Yes.

8 Q. Where is that video now?

9 A. There are a couple of copies. I  
10 actual meant to bring one today. I didn't, just  
11 forgot, but we will make it available.

12 Q. Yes. And who has the copies?

13 A. I have a copy. There's a copy in  
14 electronic form, digital form, on a server in  
15 Palo Alto. And Mr. Lindsay has a copy of it.

16 Q. Does Susan Courtney have a copy, to  
17 your knowledge?

18 A. I think she does, actually, yeah. I  
19 think we gave her one.

20 Q. Now, you say -- I believe you said  
21 there were eight excerpts in this video?

22 A. There's seven, eight, or nine. I  
23 honestly can't remember.

24 Q. How many excerpts of movies did you  
25 look at in order to arrive at this eight?